

U.S.-MEXICO MIGRATION DISCUSSIONS: A HISTORIC OPPORTUNITY

HEARING

BEFORE THE

COMMITTEE ON THE JUDICIARY UNITED STATES SENATE

ONE HUNDRED SEVENTH CONGRESS

FIRST SESSION

SEPTEMBER 7, 2001

Serial No. J-107-38

Printed for the use of the Committee on the Judiciary



U.S. GOVERNMENT PRINTING OFFICE

81-002 PDF

WASHINGTON : 2002

For sale by the Superintendent of Documents, U.S. Government Printing Office
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U.S.-MEXICO MIGRATION DISCUSSIONS: A HISTORIC OPPORTUNITY

FRIDAY, SEPTEMBER 7, 2001

UNITED STATES SENATE,
COMMITTEE ON THE JUDICIARY,
Washington, D.C.

The Committee met, pursuant to notice, at 10:08 a.m., in Room 106, Dirksen Senate Office Building, Hon. Edward M. Kennedy, presiding.

Present: Senators Kennedy, Hatch, Specter, and Brownback.

OPENING STATEMENT OF HON. EDWARD M. KENNEDY, A U.S. SENATOR FROM THE STATE OF MASSACHUSETTS

Senator KENNEDY. We will come to order, if we could, please.

It is a privilege to chair this hearing on the important issue of U.S.-Mexico migration. I commend President Bush and President Fox for their leadership and their commitment to work together to address this critical challenge. Few issues so profoundly affect the ties between our two countries.

I look forward to the testimony of our distinguished witnesses, and I commend Dr. Papademetriou and Dr. Fernandez de Castro, representing the U.S.-Mexico Migration Panel, whose insightful report—"U.S.-Mexico Migration: A Shared Responsibility"—has provided both of our governments with a basic framework for the migration discussions.

We know there is broad support in our country today for fair and balanced immigration reform that will benefit both immigrant workers and their families, and employers as well. I am pleased to see labor and business, conservative and liberal groups, faith-based and secular groups here together in support of comprehensive immigration reform. My hope is that we will be able to achieve lasting and long overdue reforms, and I look forward to working with all of you in the weeks ahead.

America has a proud tradition of welcoming immigrants. Throughout our history, immigrants have contributed significantly to the strength of our country, and we owe a great deal to Mexican nationals and immigrants from throughout the world.

Today, many industries depend overwhelmingly on immigrant labor. Yet, many immigrants are undocumented. They live in constant fear of deportation and are easy targets of abuse and exploitation by unscrupulous employers. Others, seeking to work temporarily in the U.S., risk danger and even death to cross our borders.

The status quo is unacceptable. It must be replaced with sound immigration reforms that provide a manageable and orderly system where legality is the prevailing rule.

These are complex issues, and they deserve careful consideration and debate. But they also demand immediate attention. We should not have to wait until next year. We have delayed too long already in achieving these long overdue reforms.

Last month, many of us joined in supporting a series of principles that we hope President Bush and President Fox will consider as they discuss a fair and balanced immigration proposal.

First, immigrant families must be reunited as quickly and humanely as possible. Family unity has always been a fundamental cornerstone of America's immigration policy. Despite this fact, over one million deserving individuals—spouses and children of permanent residents, have endured years of painful and needless separation. Millions more are waiting for action on their applications for employment visas.

Two options that merit careful consideration here are significantly raising the current family and employment visa ceilings, and exempting Canada and Mexico from these ceilings.

We should also remove other obstacles in our current immigration laws that are separating families. Last night the Senate passed an extension of 245(i), which will allow immigrants to remain in the United States while their applications are processed. This is an important down payment towards reuniting families and ensuring economic security and stability for individuals and American businesses.

I commend President Fox's support for a legalization program, and I urge the administration to develop a responsible proposal on this issue. Adjusting the status of these long-term residents can provide employers with a more stable workforce and help to improve the wages and working conditions of all workers. No reform will be complete without an adjustment program.

We should create a fair, uniform set of procedures for all qualified immigrants, not just Mexican nationals. We should seize this opportunity to create an earned adjustment program that benefits all deserving immigrants. In addition, we should also develop an effective temporary worker program to allow migrants, including those who recently arrived, to work temporarily in the United States. However, a temporary worker program cannot stand alone. It must be developed in conjunction with an earned legalization and family unity priority.

We must also ensure that the temporary worker program avoids the troubling legacy of exploitation and abuse under past guest worker programs. A temporary worker program should not undermine the jobs, wages, or worker protections of U.S. employees. Individuals in the program deserve the same labor protections as those given to U.S. workers.

A temporary worker program should also give participants an opportunity to become permanent residents, and eventually citizens, if they desire to do so. Also, temporary workers should not be forced to choose between their job and their families. Families should remain united while a program participant works in this country.

We all agree that our borders must be safe and secure. Over the last 5 years, Congress has invested millions of dollars to vastly increase the number of border patrol agents, improve surveillance technology, and install other controls to strengthen border enforcement, especially at our Southwest border. Too often, this border enforcement strategy has diverted migration to the most inhospitable desert and mountain areas, causing increasing deaths due to exposure to the harsh conditions. Desperate migrants are increasingly being drawn to criminal smuggling syndicates, bringing increased violence to border patrol agents, border communities, and migrants themselves.

The status quo is unacceptable. The chief cause of fatalities and safety hazards at our borders is the poor fit between our immigration policies and reality. Back and forth migration has been going on for more than a century. Substantially legalizing this flow will enhance border safety by permitting orderly entry through regular ports of entry and by shutting down smugglers' markets.

Finally, we must restore due process protection to long-term residents affected by the 1996 immigration laws and reform the structure of the INS. We should also review other provisions of the immigration law that affect American businesses and labor, especially the effectiveness of employer sanctions. Many of us are concerned that the current system of employer sanctions is unworkable for business, results in discriminatory practices, and fails to address the worst abuses by unscrupulous employers.

We have a unique opportunity in the weeks ahead to reform our current immigration system, and create policies to reaffirm our Nation's commitment to family unity, fundamental fairness, economic opportunity, and humane treatment. I look forward to working with President Bush, President Fox, and my colleagues here on the Committee and in the Congress to achieve these lasting reforms.

[The prepared statement of Senator Kennedy follows:]

STATEMENT OF HON. EDWARD M. KENNEDY, A U.S. SENATOR FROM THE STATE OF MASSACHUSETTS

"U.S.-MEXICO MIGRATION DISCUSSIONS: AN HISTORIC OPPORTUNITY"

It is a privilege to chair this hearing on the important issue of U.S.-Mexico migration. I commend President Bush and President Fox for their leadership and their commitment to work together to address this critical challenge. Few issues so profoundly affect the ties between our two countries.

I look forward to the testimony of our distinguished witnesses. I commend Dr. Papademetriou and Dr. Fernandez de Castro, representing the U.S.-Mexico Migration Panel, whose insightful report—U.S.-Mexico Migration: A Shared Responsibility—has provided both our governments with a basic framework for the migration discussions.

We know there is broad support in our country today for fair and balanced immigration reforms that will benefit both immigrant workers and their families, and employers as well. I am pleased to see labor and business, conservative and liberal groups, faith-based and secular groups, here together in support of comprehensive immigration reform. I am encouraged that John Sweeney, Raul Yzaguirre, Tom Donohue, and Grover Norquist are on the same side of this effort. I also commend Ralston Deffenbaugh and Stephen Moore, two consistent leaders in support of immigrants. My hope is that we will be able to achieve lasting and long-overdue reforms, and I look forward to working with all of you in the weeks ahead.

President Fox's visit is an excellent opportunity to reform our immigration policies to reflect the core values of family unity, economic opportunity, and fundamental fairness. America has a proud tradition of welcoming immigrants. Throughout our history, immigrants have had a critical role in the Nation's economy, contributing

significantly to the strength of our country. We owe a great deal to the hard work and the many contributions by Mexican nationals, and by many other immigrants from throughout the world.

Today, many industries, particularly the agricultural, retail, and service sectors, depend overwhelmingly on immigrant labor. These workers enrich our Nation and improve the quality of our lives. Yet, many of them are undocumented. They live in constant fear of deportation and are easy targets of abuse and exploitation by unscrupulous employers. Others, seeking to work temporarily in the U.S., risk danger and even death, to cross our borders.

The status quo is not acceptable. It must be replaced with sound immigration reforms that provide a manageable and orderly system where legality is the prevailing rule. We need immigration policies that not only reflect current economic realities, but also respect our heritage and history as a Nation of immigrants.

These are complex issues, and they deserve careful consideration and debate. But they also demand immediate attention. We should not have to wait until next year. We have delayed too long already in achieving these long overdue reforms.

Last month, many of us joined in supporting a series of principles that we hope President Bush and President Fox will consider as they discuss a fair and balanced immigration proposal. I look forward to discussing these principles with our witnesses here today.

First, immigrant families must be reunited as quickly and humanely as possible. Family unity has always been a fundamental cornerstone of America's immigration policy. Despite this fact, millions of deserving individuals are awaiting immigrant visas in order to reunite with their families. Over 1 million are the spouses and children of permanent residents, who have endured years of painful and needless separation. Millions more are waiting for action on their applications for employment visas.

Last year, Congress began to acknowledge the predicament of immigrant families. We enacted limited relief for certain spouses and children of permanent residents. This was an important first step, but the relief did not address the most pervasive problems. Working out an effective solution to the family and employment visa backlogs should be a major part of any reform proposal.

Two options that merit careful consideration here are significantly raising the current family and employment visa ceilings, and exempting Canada and Mexico from these ceilings.

We should also remove other obstacles in our current immigration laws that are separating families. Strict support requirements often prevent members of working immigrant families from receiving permanent residence. We should allow responsible discretion, where the evidence indicates that an immigrant is not likely to become a public charge. The bars to inadmissibility based on unlawful presence are also excessive. They can result in immigrant families being separated for up to ten years and should be repealed. At a minimum, immediate family members should be exempt from these prohibitions, and more generous waivers should be made available for other deserving immigrants. In addition, Section 245(i) should be extended, so that immigrants can remain in the United States while their applications are processed.

I commend President Fox's support for a legalization program, and I urge the Administration to develop a responsible proposal on this issue. No reform will be complete without an adjustment program. Hard-working immigrants living in the United States contribute to the economic growth and prosperity of our nation. The Bureau of Labor Statistics predicts that by 2008, America will have 5 million more jobs than there will be individuals to fill them. Immigrant workers are, and will continue to be, essential to the success of many American businesses.

These long-term, tax-paying immigrants should be allowed to apply for earned adjustment of their status. These long-term residents can provide employers with a more stable workforce and help to improve the wages and working conditions of all workers.

All similarly situated, long-time, hard-working residents should have the same opportunity to become permanent members of our community. We should create a fair, uniform set of procedures for all qualified immigrants. Many of today's undocumented workers are Mexican nationals—but many others are from Central and South America, Asia, Africa, and Europe. We should seize this opportunity to create an earned adjustment program that benefits all deserving immigrants.

In creating such a program, we can borrow from time-tested provisions in our current immigration laws, such as registry. At a minimum, eligible immigrants should be long-time residents who are persons of good moral character, have no criminal or national security problems, and are eligible to become U.S. citizens.

The wider availability of legal status for Mexicans and other nationals has important foreign policy ramifications. Immigrants earning permanent legal status are likely to receive higher wages and send back more funds to their native lands. Recent data indicate that Mexicans in the U.S. send more than \$8 billion dollars a year to their families and communities in Mexico. The remittances sent by Central American immigrants have contributed substantially to the vital economic recovery and reconstruction of that region. These remittances are a critical source of funding for development initiatives that will profoundly improve the lives of persons in those countries, encourage them to remain at home, and contribute to the well-being of their nations and our nation.

In addition, we should also develop an effective temporary worker program to allow migrants to work temporarily in the United States. Any such program should also benefit migrants who have recently arrived. However, a temporary worker program cannot stand alone; it must be developed in conjunction with earned legalization and family unity priorities.

We must also ensure that the temporary worker program avoids the troubling legacy of exploitation and abuse under past guest worker programs. A temporary worker program should not undermine the jobs, wages, or worker protections of U. S. employees. Individuals in the program deserve the same labor protections as those given to U.S. workers, including the right to organize, the right to change jobs, and the protection of their wages, hours, and working conditions. Anything else would not only subject migrants to abuse, but would also undermine the wages and working conditions of U.S. workers.

A temporary worker program should also give participants an opportunity to become permanent residents, and eventually citizens, if they desire to do so. Our current immigration laws already provide high-skilled temporary workers with this option. The same standards should apply to any temporary worker program for other essential workers. Also, temporary workers should not be forced to choose between their job and their family. As in the current temporary visa program for high-skilled workers, families should remain united while a program participant works in this country.

We all agree that our borders must be safe and secure. The issue is whether our current enforcement policies are effective. Over the last five years, Congress has invested millions of dollars to vastly increase the number of border patrol agents, improve surveillance technology, and install other controls to strengthen border enforcement, especially at our southwest border. Too often, this border enforcement strategy has diverted migration to the most inhospitable desert and mountain areas, causing increased deaths due to exposure to the harsh conditions. Desperate migrants are increasingly being drawn to criminal smuggling syndicates, bringing increased violence to border patrol agents, border communities, and the migrants themselves.

The status quo is unacceptable. The chief cause of fatalities and safety hazards at our borders is the poor fit between our immigration policies and reality. Back and forth migration has been going on for more than a century. Substantially legalizing this flow will enhance border safety by permitting orderly entry through regular ports of entry and by shutting down smugglers' markets.

Controlling our borders is a shared responsibility. Mexican and U.S. law enforcement authorities should continue to develop joint strategies and expand the recently announced coordinated operations. Effective joint efforts on the border will save lives, break up smuggling rings, and build new confidence and trust between our nations.

Sound reasons may exist for beginning the reform of our migration policy with a temporary worker program for Mexico, but we should do so with a view to expanding it quickly to equally deserving people of other nations. Our closest neighbors in the Caribbean and Central America should be among the first to benefit from this expansion.

Finally, we must restore due process protection to long-term residents affected by the 1996 immigration laws and reform the structure of the INS. We should also review other provisions of the immigration law that affect American businesses and labor, especially the effectiveness of employer sanctions. Many of us are concerned that the current system of employer sanctions is unworkable for business, results in discriminatory practices, and fails to address the worst abuses by unscrupulous employers.

We have a unique opportunity in the weeks ahead to reform our current immigration system, and create policies to reaffirm our Nation's commitment to family unity, fundamental fairness, economic opportunity, and humane treatment. I look forward to working with President Bush, President Fox, and the Congress to achieve these lasting reforms.

Senator KENNEDY. Senator Hatch?

**STATEMENT OF HON. ORRIN G. HATCH, A U.S. SENATOR FROM
THE STATE OF UTAH**

Senator HATCH. Thank you, Mr. Chairman. I want to commend you for holding this hearing today. This is a very important hearing, and I believe it will get us on the track of doing what really has to be done in these areas.

I believe that the discussion we are engaging in today is very timely and very appropriate—appropriate in the sense that, as President Bush has recently remarked, the issue of immigration and immigration reform is a complex one. Because it is complex, I applaud the administration's careful consideration with regard to a comprehensive plan of action. Resolving the issues at hand requires reflective thought and discussion. These witnesses before us can, and I am sure will, offer valuable viewpoints to this Committee.

Immigration has long been one of the important issues within this Committee's jurisdiction and one that has often accompanied bipartisan consensus. In fact, last night was a prime example of the type of bipartisan effort to which I refer. I want to congratulate the President as well as Senator Kennedy, Chairman Sensenbrenner, Senator Brownback, the ranking member on our Immigration Subcommittee, along with Senator Kennedy, who is chairman, Senator Hagel, Senator Kyl, and many others for their efforts to arrive at a strong, bipartisan, bicameral compromise on the so-called 245(i) legislation.

In addition, last year Senator Kennedy and I worked on legislation supporting family reunification and immigration policies which serve to keep families intact. Also, we have in recent years successfully worked together on expansion of the H-1B program, which allows necessary workers to come to and work in the United States in professional positions. I certainly look forward to working closely with the administration and members of this body to enact useful immigration reforms this Congress.

Over the past few months, three primary immigration reform models have been discussed, those being: one, amnesty; two, a guest worker program; and, three, the enactment of various "earned adjustment" provisions. On each, there are strongly held views, and I very much look forward to all of the witnesses' thoughts and comments here today.

Before I conclude my remarks, however, I hope you will indulge me, Mr. Chairman, while I plug the DREAM Act, S. 1291, which I introduced just last month. This bill, which is similar to legislation recently introduced by Senator Durbin, is an example of an earned adjustment provision. The concept of earned adjustment contemplates the giving of a benefit based on a personal accomplishment that benefits society as a whole. Under the DREAM Act, an alien child who is a long-term illegal resident of the United States and is otherwise a respecter of the law can earn permanent residency upon graduation from a qualified institute of higher education. While I recognize that the current emphasis is appropriately on worker migration, I think that emphasis should also be placed on the plight of illegally present children and their efforts

to better themselves by pursuing higher education. So I look forward to working with Senators Durbin and Kennedy on our respective bills and try to get something done on this important matter as soon as possible.

I am very pleased with the work that Senator Kennedy and Senator Brownback have been able to do together thus far. Senator Brownback, who is new on our Committee, has really, I think, jumped into these important issues, these very difficult issues, and is paying the price to really master them. And I think, Mr. Chairman, you are going to enjoy working with him, and certainly I hope that I can be a constructive and helpful force here for both of you as well.

So, again, Mr. Chairman, thank you for scheduling this very meaningful hearing. I look forward to the comments of the witnesses, and I can only be here for a short while. I would ask that Senator Brownback take my position as ranking on the Committee for the purposes of this hearing.

[The prepared statement of Senator Hatch follows.]

STATEMENT OF HON. ORRIN G. HATCH, A U.S. SENATOR FROM THE STATE OF UTAH

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Senator KENNEDY. Thank you very much, and I will just mention for the record Senator Hatch's help in making sure the Committee was able to report out 245(i), which he referenced earlier. It was touch-and-go there for a while, but we were able to achieve it, and I thank our colleagues here. I see Senator Specter, who is a strong

supporter of that program. And I would like to recognize Senator Brownback, who was the chairman of the Immigration Committee for a little while, and I enjoyed working under his tutelage. The Immigration Subcommittee has been a small Committee over the years, but we have been able to get things done. Senator Brownback has gotten into this issue and become very involved and very active, and is already a significant leader in it. I welcome his comments here.

Senator HATCH. Mr. Chairman and Senator Brownback, if I could just make one comment, thank you for your kind remarks. That was a big thing yesterday to get that done. I was so impressed with President Vicente Fox yesterday and his desire to really bring our nations together in ways that really need to be accomplished. And I am just very grateful to the two leaders on the Immigration Subcommittee and the work that they do, and also Senator Specter, who plays a very, very important role on the full Committee as a whole.

**STATEMENT OF HON. SAM BROWNBACK, A U.S. SENATOR
FROM THE STATE OF KANSAS**

Senator BROWNBACK. Thank you very much. Thank you, Senator Kennedy, for holding the hearing, and thank you for your kind comments. And I want to thank Senator Hatch as well for his kind comments and the work he did, and congratulations on getting 245(i) through the floor last night. Your work, that of Senator Hatch, and the support of Senator Specter and many others have been invaluable in getting this done.

Mr. Chairman, members, we are a Nation made prosperous in significant part by the toil of immigrants. America is a Nation of immigrants who, energized by liberty and resources, have helped catapult this Nation into the rank of the best and the brightest of nations. We can be proud of this legacy regarding the extraordinary contribution of immigrants.

I would like to begin this hearing by acknowledging this invaluable immigrant legacy and by asking three fundamental questions: Who are they? Why now? And what now?

First, who are they? Some come to the United States because of political or religious persecution, and by their brave commitment to larger principles, they continue to renew our fierce love of freedom and justice. However, most immigrants came and continue to come primarily in search of economic opportunities, striving to make a better life for themselves and for their families. In short, we are a more prosperous, more free, more tolerant, and a better Nation because of the immigrants among us.

Given these observations, I am especially pleased by this hearing today and this opportunity to discuss immigration reform. I would like to thank Senator Kennedy for holding this important hearing. It is time we adjust our current system regarding Mexican immigration. The status quo needs to be changed in many ways that we will examine today, and we have the opportunity and perhaps even the responsibility, I would suggest, to begin this difficult but imperative task now.

Why now? Most significantly, we have the leadership of President Bush, who has repeatedly demonstrated his commitment to

work for change in partnership with the dynamic new Mexican Government headed by President Vicente Fox. Moreover, the economic and social contributions of immigrants are increasingly recognized as the profile of this issue is raised. Immigrants strengthen our culture, as well as help make our economy strong. Importantly, they pay taxes. Immigrant households and businesses paid an estimate \$162 billion in taxes in 1998. In my estimation, that is too high. I think we should cut taxes even for immigrants as well.

Additionally, immigration helps solve a pressing problem faced by our Nation involving a dramatic worker shortage. By 2008, according to figures released by the Bureau of Labor Statistics, our total projection of available jobs should be 160.7 million, yet the total civilian labor force is expected to be only 154.5 million, resulting in over 5 million more jobs than people to fill them. In the long term, it is projected that the tight labor markets will continue as the baby-boomer generation retires in the next 30 years.

Our current immigration system with Mexico is badly lacking and has been compared to the elephant in the room which no one has been willing to acknowledge—until recently, that is, when President Bush began to raise the problems, and he should be commended for his courage and his vision. I believe that such comprehensive reform should make legality the norm and rationally reflect the growing needs of our business sectors. This is a hard task which will take tenacity and courage, but it must be done.

The urgent need for reform was recently articulated by six former Chairs of the Republican National Committee in their recent letter to President Bush. Their letter advocated for a “freer flow of people to accompany the flow of goods and services that have so benefited the citizens of the United States.” They additionally noted that the “Republican vision of a society of opportunity, equality, and commitment to the rule of law is one shared by many who seek to enter the United States to participate in the American dream.” I believe they are right.

Where the President leads, the Nation will follow. So, what now?

We need an earned regularization for undocumented people who work, pay taxes, contribute to their communities, and seek American citizenship. Such people should be given the opportunity to obtain permanent residence instead of being forced outside the boundaries of the law.

Number two, we need a new temporary worker program that differs from existing programs and respects both the labor needs of business and the rights of workers. Current immigration law does not meet the present needs of our economy in many sectors experiencing worker shortages. Importantly, a new program should help deter future illegal immigration by creating a more effective, efficient mechanism through which people can legally enter the United States.

Third, we should open up family- and business-based immigration to address presently massive backlogs. Illegal immigration is symptomatic of a system that fails to reunify families and address the economic needs in the United States. To ensure a rational and fair system, we must reduce bureaucratic obstacles and undue restrictions to permanent legal immigration.

In closing, I look forward to working with the Bush administration, with my colleagues on this Committee, with Senator Kennedy, and in the Congress, and those of you who have the solutions for these very real needs. I particularly look forward to working with the chairman, Senator Kennedy. The notion that he would serve under my tutelage is quite an honor that he gave me and noted. I look forward to working closely with him on this issue that has great bipartisan support. Ultimately, I hope for a comprehensive immigration reform that will serve our Nation well. And, lastly, I ask for the candor of our witnesses. We need your boldness, and we seek your solutions.

Mr. Chairman, I look forward to working with you on a very important topic. Thank you.

Senator KENNEDY. Thank you very much.

I want to recognize Senator Specter, who has been very involved and active on immigration issues. We are grateful for your presence.

**STATEMENT OF HON. ARLEN SPECTER, A U.S. SENATOR FROM
THE STATE OF PENNSYLVANIA**

Senator SPECTER. Thank you very much, Mr. Chairman, and I especially commend you for your timing on this hearing when President Fox of Mexico addressed a joint session of the Congress yesterday in a very impressive speech, emphasized the importance of cooperation between the United States and Mexico, and the issue of the Mexican migrant workers is a very, very important matter that has to be addressed as a matter of working out the relationships between our two countries.

There is beyond any question a tremendous need for workers in America, and our country has a great tradition of being a country of immigrants, and that is something of special importance to me personally because both of my parents were immigrants. My father came to this country as a young man of 18 who wanted to avoid the czar's heel, literally walked across Europe, barely a ruble in his pocket, didn't know at the time that he had a round-trip ticket—he came steerage to the United States, didn't know that he had a round-trip ticket to France, not to Paris and the Follies Bergere but to the Argonne Forest, where he served his country and was wounded in action. And my mother came to this country at the age of 6 with her family, settled in St. Joe, Missouri, and they were real contributors to this country, as immigrants have traditionally been.

I had a series of town meetings last month, as we do in the recess period, and I must say that there is tremendous concern among people about what our immigration policy will be. The concerns were expressed on blanket amnesty, and there is a lack of understanding of the important role that the migrant workers play in the economy. And what has to be done in my judgment is to have an assessment, a national assessment made as to our worker needs and then to structure a rational policy of legalization so that migrant workers are not in the United States in fear of being detained and they are not looked down upon as being in an illegal status, so that we can both enjoy the rule of law and have the appropriate assistance from the migrant workers and to carry on the

great tradition of America which has been so hospitable to immigrants historically.

This is a tough problem. If it weren't a Friday, I think you would see a lot more Senators here. But it is a good day to tackle the issue because there will be a lot of focus of attention with the travel together that President Bush and President Fox are undertaking, and I think they will be looking to this Subcommittee and Committee for some positive answers.

Thank you very much.

Senator KENNEDY. Thank you very much.

We welcome the members of our first panel: Dr. Demetrios Papademetriou and Dr. Fernandez de Castro. Dr. Papademetriou and Dr. de Castro were the conveners for the discussions that led to the Carnegie Endowment's important report, "Mexico-U.S. Migration: A Shared Responsibility." This report served as the foundation for principles articulated by the Mexican Government as well as by our own democratic principles. And we will recognize Dr. Papademetriou.

**STATEMENT OF DEMETRIOS PAPADEMETRIOU, CO-DIRECTOR,
MIGRATION POLICY INSTITUTE, WASHINGTON, D.C.**

Mr. PAPADEMETRIOU. Thank you very much, Mr. Chairman, members of the Committee. I am a bit at a loss of words because I could actually be testifying and saying the same things that the members have actually articulated in the last few minutes. But, nonetheless, I will speak a little bit about the report, then try to assess where several democratic group principles with regard to immigration reform fit within the report.

The report reflects 8 months of rather intensive work and involved, in our view, some of the best thinkers, experts on this view, as well as a number of institutional interests. To give you a sense: unions senior members from the unions, as well as senior members from the business community were represented in this consensus report. I am proud to say that the final product does not really reflect too many compromises. Truly, after 8 months of hard work, a group of often unlike-minded people came to the reported conclusions. On the Mexican side, the report was chaired by Ambassador Rozental and from the American side by Mack McLarty, whom I suspect you all know, and by Bishop Nick DeMarzio, Bishop of Camden, and chairman of the U.S. Catholic Bishops Committee on Migration.

The panel's assessment was that the status quo is simply unacceptable and recommended recasting the relationship between the two countries, and I quote: "from attempting to enforce contestable, unilateral propositions to carrying out the terms of an agreement." That is a fundamental change from the way that we have done our business with Mexico in the past 100 years or so and we hope it is what the future will bring. The process differs from asserting absolute notions of sovereignty. It is more along the lines of affirming the provisions of a mutually beneficial negotiated deal. Very simply, this means that we have now come to a much more mature appreciation of the role of migration in the American economy, now and for the future. We seek in the report to start a conversation—the same one that you, the members of the Committee, have appar-

ently started—about coming up with an immigration policy that will be responsive to the needs of families seeking to reunify with their close relatives as well as to employers looking to engage foreign employees under conditions that will make us all proud rather than recreating the conditions under which previous temporary worker programs have operated.

I will read a short passage from the report, with your permission, and then I will go back to oral comments. We said that, “It is increasingly recognized that current enforcement policies regarding unauthorized migration from Mexico are broken. Presently, the United States maintains a rigid patchwork of laws and mounts extensive unilateral law enforcement efforts. These have proven largely ineffective at achieving the intended outcomes of channeling migration through legal entry points and reducing unauthorized migration, while unintentionally, but expectedly, spurring the growth of a migration black market. As a result, too many migrants die trying to cross into the United States, too many hard-working immigrants are subject to exploitation, and too many decent employers in the United States are undercut by unscrupulous competitors who exploit unauthorized immigrants.” This is the fundamental conclusion of our report.

Now, how does this report fit with the principles? There are five pillars in the democratic statement of principles for immigration law. The first one is family reunification. That principle is fully consistent, fully consonant with our call for additional legal permanent visas. Part of the reason that over the past 15 years unauthorized migration has grown almost out of proportion with what we had seen in prior years is that the backlogs for family reunification became too long, and the employment-based immigration system, both permanent and temporary, was unwilling to keep up with the change in demand patterns.

The second principle is earned access to legalization. We also view the process of legalization or regularization—I think as of yesterday the new term is “normalization.” We are very good at euphemisms in this business, as you know so very well, Mr. Chairman and Mr. Hatch. Essentially what we are all struggling with are what the Committee will be struggling with is: How to find a system of credits, or if you will, of rewards or points through which people can earn legal permanent status? What is it that we are going to decide to reward? And I suspect that reasonable people will roughly come up with some sort of credit or some sort of points given to people for having been in this country for a number of years, having played by the rules, having paid taxes, and having contributed to the economy. Something perhaps that can be measured by the willingness of an employer to suggest that they will continue to employ such an individual. Something indicating some progress, making an effort toward contributing to the social life of our country, through perhaps learning English, making an effort in that regard, or engaging the community in which the person lives. That is a very difficult thing to quantify, but I am sure that people can come up with a system that does so.

The third principle is border safety and protection. We are convinced that only through active, almost organic cooperation between Mexico and the United States can the border objectives that

you, Mr. Kennedy, set out a few minutes ago—legality, order, the stoppage, the absolute stoppage of violations in terms of the human rights and civil rights of individuals, and, of course, the protection of our enforcement personnel, the border patrol—only through joint cooperation can we achieve that goal.

And then the fourth principle, an enhanced temporary worker program. I was delighted to read in this particular passage the kinds of things that we have suggested that should be included in any temporary worker program, which include a system whereby those that choose to pursue a path to permanent residence can be allowed to earn that, and that people who enter the program and work under something that we call in trade negotiations national treatment—in other words, treatment that is equal to that of any other U.S. worker in the labor market.

Finally, you also have here fairness for immigrants and legal residents. We haven't really considered that. I don't think anyone can take issue with that. But there is one issue that appears in our report that does not appear in these principles, but nonetheless it was alluded to in the comments by the Committee members. We have to think hard about how to take care of those things within the context of the immigration formula. And we, the panel, think that if indeed we are to begin a true new bilateral discussion and resolution of these issues with Mexico, inevitably we are going to have to get to the point where Mexico and Canada are taken outside of the worldwide numerical limits of the U.S. immigration formula. Not only is this going to be able to accommodate the special things that we wish to do with Mexico, but in addition to that, it will provide an opportunity for the other countries in the world to gain a number of visas, 20,000, 30,000, 40,000. This will allow them to reunify with family members or for employers to be able to bring in workers at a faster pace.

Finally, what I think at the conclusion of what it is that we are trying to do we came up with is that we opted for a series of things: legality over lawlessness and illegality, and for order at the border versus chaos. We opted for fair economic opportunity with dignity over exploitation and over human and civil rights violations. We opted for safety over danger. And we opted for giving employers access to the workers they need and the proper conditions for creating rules that make so little sense that employers are in some ways invited to break them. This is a reference to the point that you also made, Mr. Chairman, about rethinking the employer sanctions regime that we have created. And, fundamentally, I think what the panel agreed to do is to change the way that we conduct our immigration business. We ask Mexico and Canada to be partners in that effort. That would make the greatest difference in outcomes for all of us.

Thank you very much, Mr. Chairman.

Senator KENNEDY. Dr. de Castro?

**STATEMENT OF RAFAEL FERNANDEZ DE CASTRO, PROFESSOR
AND DIRECTOR, DEPARTMENT OF INTERNATIONAL STUD-
IES, INSTITUTO TECNOLÓGICO AUTÓNOMO DE MÉXICO,
MEXICO CITY, MEXICO**

Mr. DE CASTRO. Yes, thank you very much, Chairman. It is an honor for me to testify in front of this Committee. I appreciate the opportunity you Senators are giving me to present this report, written by my university, ITAM, in Mexico City, and the Carnegie Endowment.

I am convinced—and that is what I have said to this invitation—that we are facing a historical opportunity to make migration of Mexicans to this country an orderly and legal process, and I guess we should seize that opportunity. That is why I decided to come here.

I will say that President Fox is right. We need soon an agreement so that in 4 to 6 years every single Mexican in this country should be legal, should be residing here legally. To me, two facts explain this historical opportunity.

First of all, there is the emergence of democracy in Mexico. That is very important. That has created a very important bond between the two countries, and it seems to me that now you can trust even more your Southern neighbor. That was yesterday's message by President Fox.

Second, I will say that President Fox has been unprecedentedly committed towards migration. He has made migration a priority of his administration, and he is doing things that we have never seen before in Mexico. His administration is strongly combating the smugglers on the border, which is very important. Second, his administration is committed to dissuade those Mexican immigrants crossing throughout the difficult and dangerous zones. That has no precedence in Mexico. And, finally, I guess, the increase of the Mexican Government—they have increased their commitment to not allow third-country nationals to cross through Mexico and to enter into the United States.

Let me go now to the ITAM-Carnegie report. Let me tell you that I have been involved in numerous academic exercises, and I have never seen that at the outset of an exercise like this or a project like this there is such a big consensus among academics. Politics among us might be harder or worse than in this Capitol Hill. It is not easy to convince academics. We all have our own ideas, and here the ten Americans and the ten Mexicans working on this panel, we reached a consensus at the very beginning, and the consensus was that the status quo was not acceptable. Why was it not? Because there was a big contradiction between what NAFTA had done to facilitate the crossing of merchandise and services across the border and, on the other hand, to have U.S. officials erecting barriers, erecting steel walls on the border between Tijuana and San Diego. That was a sharp contradiction.

U.S. policy in the last 5 or 6 years had made Mexican migration more dangerous for the undocumented Mexicans crossing. That is why the last year almost 500 Mexicans died on the border trying to cross undocumentedly. And for two countries that are already such important economic partners, this is inadvisable. And I guess I cannot be satisfied in repeating this.

Second, it seems to me that these measures to try to keep the Mexicans to come into the United States, just increasing the border patrol, have made smugglers more necessary. It really created a boom for these smugglers.

Finally, I would say that what once was a circular flow of Mexicans, it became now elliptical. Now Mexicans came here and stayed longer because for them it is dangerous to go back to Mexico and to try to cross back again to the United States. Our report highlights a very important thing, and that is that Mexico is in the last stage of a demographic transition. That means that in the next 10 to 15 years, we are going to have in Mexico low fertility rates and low mortality rates, and what is important in terms of migration is that the work—the number of Mexicans entering into the working age will be dramatically reduced.

Today, 1.2 million Mexicans enter every year into the working age. That is the age between 15 and 44 years. And in 10 to 15 years, that pressure will be reduced in half. Only 600,000 Mexicans will enter into that force.

Let me tell you something. Seventy percent of Mexican migrants belong to that age between 15 and 44 years old. So what the Mexican proposal in a way is proposing to the U.S. is to bridge a gap for the next 10 to 15 years. In 10 to 15 years from now, we won't have a demographic pressure in Mexico.

Our report has four principles. Demetri already referred to them, but let me give you my perspective.

First of all, yes, indeed, we need to work in the border in a common fashion. It is a common border, so that is why we need a shared responsibility.

Second, we need the regularization of the 3 to 3.5 million Mexicans who are here undocumented. If we want to make of this an orderly and legal process, we have to deal with it.

There are two other options, just to forget about them, to put them down the carpet, or to deport them. But I believe those two options are not admissible for the United States and for Mexico.

The third principle is we need a temporary worker program. The bracero experience—and we had a lot of discussions in our panel—now we know that we have the lessons of the bracero program that was in effect from 1943 to 1964. It is that now we need full rights for the Mexicans coming into that temporary worker program.

And the fourth principle—and to me this is the single most important one—is to develop economic programs regionally. We have to target those zones in which most migration is originated, and this should be a shared responsibility. Yes, we are talking about a different position of the two countries regarding migration.

I wrote 10 years ago my Ph.D. dissertation in the political science department in this country, at Georgetown University, about how to manage U.S.–Mexican bilateral affairs. And after studying all different ways to manage U.S.–Mexican affairs, I came to the conclusion that the best way to manage bilateral affairs, the very complicated issues as migration, is by establishing legal frameworks that order these issues. That is the NAFTA lesson. Before NAFTA, 12 to 13 years ago, Mexico was the country in the United States with the most demands for unfair trade practices. Nowadays we still have problems, but NAFTA has allowed both

Mexicans and Americans to manage trade issues. And NAFTA has given certainty to the players. That is what we have to do in migration, and that is what we have to do regarding drug trafficking.

Thank you very much for this opportunity.

Senator KENNEDY. Thank you very much. That was a very helpful summary of the report.

Let me ask you first the question, Demetrios, and focus on one element for a minute, that is, the concept of exempting Mexico and Canada from the visa limits. Could you elaborate on the concept specifically addressing the following? Is there an historical basis for the exemption? And what would be the effect on the other nationalities in the backlog? And would such a policy change the result in a significant increase in actual immigration to the United States, or would many of those who would benefit by being able to come legally have come to the U.S. illegally?

Mr. PAPADEMETRIOU. Thank you, Mr. Kennedy. There is actually historical precedent of treating the Western Hemisphere differently from the rest of the world. In fact, the Western Hemisphere was not folded into the worldwide system of immigration, as you may recall. You were the Chair at the time in 1978. So there is precedent over there.

But I think the most compelling reason for this is the integration of the two economies and the two labor markets. There has been an extraordinary convergence that has taken place over the past 10 or 15 years that is not only limited to Mexico. Let me give you a datum that I think certainly most people find a bit shocking, I guess.

We are focusing on Mexico and Mexico's participation in our economy and our labor market. But in the past few years, the participation of Canadians into the American labor market has grown at a pace, at the legal end of it, that is much higher than that of Mexico. Over 100,000 Canadians last year entered the United States and took occupations legally, the vast majority of them, about 70,000 or so, through the special visa that was created in the NAFTA. Mexicans, of course, get most of their visas through the permanent family immigration visa. But in the last few years, we have seen significant increases of Mexicans receiving the L visa, and also both the H-2A and H-2B visas. It is inevitable that the economies will grow closer together. NAFTA guarantees that.

So making certain that we find a way to accommodate in a way that makes sense for everyone would be indeed the way to go. That would create opportunities in both the permanent and the temporary system for other countries. It would liberate about 20,000, 25,000 or so visas in the family, the exempt—the controlled family part that Mexico now uses, about 10,000 to 15,000 per year that Canada now uses, and for temporary visas that have numerical caps, it would create a big gap that then can be filled by other countries.

It is a different question as to how large the numbers need to be, how large the numbers should be or what have you. But if you have, as you know very well, a system that is robust, that has the right elements in it, we can certainly make it, control it, in a way that will actually be consistent with economic conditions in the United States and other things that we wish to attach to it.

Senator KENNEDY. So your point is that beyond just benefiting Canada and Mexico, that there would be the opportunities for inclusion of others as well.

Mr. PAPADEMETRIOU. Yes, sir.

Senator KENNEDY. And we could develop a process and a system which it would not only be perceived as fair, but actually be fair. This is something we would have to give some thought to. You have given us a general framework on that, but it is something that I think a lot of people haven't considered, this point about the displacement and the new opportunities that would result.

Do you think that such a policy would result in a significant increase in the actual amount of immigration, or would many of those that would benefit be able to come legally rather than illegally? What is your sense?

Mr. PAPADEMETRIOU. My sense is that if we create legal channels that make sense, most people will utilize those channels. And if we remove the perverse incentives of the current system, which are to go through the back door or the side doors, and replace them with things that make sense, people actually will come and some of them will go back. We tend to think of immigration as exclusively a one-way process. The historical standard was almost 50 percent, but even today, in reality, about 25 percent of the legal immigrants that come here actually leave at some point in the future. We are infatuated by the fact that the legal number plus the illegal number might be whatever, 1.3 million, 1.1 million, depending on how you count and where your political convictions are. But, in reality, they are that minus about 20 to 25 percent.

I think we can accommodate the additional numbers because fundamentally we have not seen in the 1990s any relationship between higher numbers and somehow lower economic or greater social cost, lower economic performance, or anything like that.

Senator KENNEDY. Dr. de Castro, I saw you raise your and.

Mr. DE CASTRO. Yes, I wanted just to mention that the numbers of Mexican migration coming into the U.S. are not very sensible to the conditions in the United States, to the legal conditions or to the difficulties in the border. In the last 5 years, there is approximately 350,000 Mexicans coming into the U.S., and that is regardless of how difficult it is to cross. And it seems to me that if you completely open the border or you completely close it, you still are going to have those numbers because those are the ones who need to have a better salary than in Mexico. They are still seeking for better salaries. Most of them, they have jobs in Mexico, but it is the disparity that brings them to the U.S. labor market.

Senator KENNEDY. I want to try and follow 7-minute time, and mine is just about to run out. I want to ask you, you have indicated a point system which could be developed to earn legal status. Have you developed such a system? Would you submit it later on? Could we inquire of you how that could be structured?

Mr. PAPADEMETRIOU. I would be happy to work with staff on this, Mr. Chairman.

Senator KENNEDY. Many have argued that reform can't give undocumented people an unfair advantage over those who have played by the rules and waited in line. How do your recommendations address that concern?

Mr. PAPADEMETRIOU. Well, I guess the way that I would handle it—nobody made me an immigration czar or a Senator. The way that I would handle it is I would allow people who have close family relationships and are waiting in the backlogs to actually come in sooner than anybody else. And I think Mr. Hatch's—he has left now. Mr. Hatch's law from last year creating a V visa may actually facilitate the movement of people from the backlog coming to the United States legally with full labor market rights, even if they have to wait for some years, I would hope fewer rather than more years, before they can get their green card.

I think that might be a way that we might be able to handle both the people who are waiting, again, in the closer family relationships. I am not going to suggest that somehow the siblings preference of 2.5 million people somehow should be waved in, you know, in a matter of a year or two. But I would suggest that this is one way to handle it.

And this point system, it is actually an unfortunate term, but this system of building credits is by necessity going to take longer than any kind of action through a V visa-like system.

Senator KENNEDY. Senator Brownback, we are trying to follow about a 7- or 8-minute time. We have some flexibility, if that is all right.

Senator BROWNBACK. Yes, that would be just fine. Thank you, Senator Kennedy. Excellent testimony, very good report, and I appreciate your presentations here today.

One thing that has been raised often is, as people kind of attack this idea of a normalization, regularization, whatever you want to call it, it is just a blanket amnesty, that is what this is. Would either or both of you care to distinguish between what you are proposing and a blanket amnesty program?

Mr. DE CASTRO. Yes, I would say that the way we are envisioning this regularization is a gradual process in which you might be rewarding the effort of those Mexicans or foreign nationals to assimilate to the society, to pay taxes, and we see this as a gradual process in which you have to develop, I guess, very imaginative ways to make sure that you reward the effort of those migrants to be here and to contribute to this society.

Mr. PAPADEMETRIOU. Mr. Brownback, the amnesty that we gave in 1996, the legalization program—

Senator BROWNBACK. 1986.

Mr. PAPADEMETRIOU. I am sorry, 1986. Okay. I meant to say that, 1986. It was indeed a blanket amnesty. People who had been here for a number of years, since the beginning of 1982, and had essentially played by the rules in terms of not breaking the law and had stayed here continuously were able to gain legal permanent residence over a period.

An earned legalization program would invite people who are here, who are contributing, who are paying taxes, to try to earn a status that was given away to them in 1986. There is a big difference in my mind between the one and the other, but there is another difference, sir.

In 1986, we thought that we could do things on our own. It was a unilateral act that fundamentally said we are going to give you these visas, willingly we are going to now accept the fact that

about 3 million additional people remain in the United States illegally. That was the estimate of the population between 1/1/82 and November of 1986, that 5-year period. And we pretended that by doing things at the border unilaterally or by beating up on employers unilaterally, again, we were going to somehow stem the future entry of undocumented workers.

What we are discussing here is an opportunity to do things differently, not only enlist Mexico in trying to take out of the picture all of the bad actors who systematically break our laws and, I think, attempt to defeat both American democracy and Mexican democracy by creating in a sense a parallel state, as it were. But more than that, by accepting the fact that our economy simply needs and can use much larger numbers of immigrants, permanent, temporary, than what we are giving them through the immigration formula; and accepting that American families and the families of green card-holders should also reunify at a faster rate. I cannot think of too many people who think that separating a wife from a husband or a husband from a wife or parents from children for 6 or 7 years, which is what happens in our second preference, makes sense to anyone.

Senator BROWNBACK. No, it doesn't. It doesn't make sense to anybody, and it forces people to do things illegally that they would not otherwise.

To me there is a fundamental difference. I would ask both of you or either of you, if you know this: What was the number of undocumented workers we had prior to 1986? And what is the level of undocumented workers that we have now? I think you cited that.

Mr. PAPADEMETRIOU. Yes. In 1986, our best estimate was that we were having somewhere between 5 and 6 million people. We gave legal status after the process to about 2.8 million people. Presumably we were left with something like 3 million people.

Today, the estimates that most people who look at the data very, very, very seriously give are that the number was somewhere around 6 million people.

Now, the Census has come up with numbers that are forcing a certain re-examination of that. What we don't know is whether these people came since the last Census, the additional people, or they were here but uncounted in the previous Census, because the Census is indicating that the number might be as high as 10 or 11 million. The question is, again—it is not all undocumented, but the number, the difference between what we should be finding and what we are finding, the question is how many of those people are undocumented rather than simply people who were not recorded in 1990. And we don't really know that. It will be somewhere between 6 and 8, 8.5 million people. Jeff Passel at the Urban Institute, who really lives by the numbers, might be a much better person to answer that than I would, sir.

Senator BROWNBACK. We will do that. The reason I ask that is that I think what you are putting forward, what I have discussed of an earned legalization process, is far different than what an amnesty program is. An amnesty program is a one-shot program that we thought in the wisdom of the time was going to solve our undocumented worker problem at that time. Instead, in a number of people's minds, it actually created a perverse incentive to say,

okay, if you can get here to the United States and just stay here for a while, at some point in time you will get an amnesty. Whereas, I liked really Dr. de Castro's statement about this—what you are talking about here is more of a system to manage what is taking place in this country, and that we would hope once going into this that this would not be something that every few years we would look at an amnesty program; but, rather, okay, this is a system where we manage the flow.

I am saying things, but I am hopeful that you are in agreement with that conclusion. Would that be correct?

Mr. DE CASTRO. Very much. That is really the whole purpose of, I guess, the final recommendation, is that we should treat this very complicated phenomenon in a comprehensive way. And that is why I guess the Mexican Government has bought this recommendation. They are talking about an integrated package of immigration. We believe it is very important in the report. We discussed this at length, and we came out with the conclusion that in order to solve this, we need a whole package. And this is—if you see some similarities between the Mexican Government and our report, I can assure you that the report was written first, not the Mexican Government came with that proposal.

Senator BROWNBACK. A final question. As one of you noted—I think, Dr. de Castro, you did—that this has created a heyday for smugglers into the United States. By our Government's estimates, CIA estimates, there are somewhere around 700,000 people being moved between borders of countries around the world, much of that number actually, the 700,000, is generally sex trafficking, human trafficking, for a number of illicit purposes. It has been a very dark side of the globalized economy. But what they also stated was the third leading income source now for organized crime is human trafficking, behind drugs and gun-running, and they are projecting for it to grow.

Are your numbers in sequence with that when you say it creates a heyday for smugglers in the amount of organized crime that is involved with this?

Mr. DE CASTRO. What we have observed in the U.S.-Mexico border is an increase of these bands of smugglers. We do not have the number, but what I wanted to comment on this is that I am very much encouraged by the maturity of the relationship between the two administrations. It seems to me that now even in law enforcement, you are going to see the Mexican Government willing to cooperate, taking the heat because—that is true in the past sometimes we took a position very nationalistic and we were unwilling to cooperate in certain aspects with U.S. authorities. Now, I am very much encouraged on this. I am seeing a Mexican Government that finally, when they agree with the U.S., they say so. And they find ways to disagree. I am truly encouraged by this new attitude of the Mexican Government. I have been studying U.S.-Mexican relations for the last 10 years. It has been my passion. And finally you have a Mexican Government that sometimes is taking political heat in Mexico for being so open to the United States. Yesterday Vicente Fox took some heat because of his words he said in Congress. It is a new President. He is someone who truly sees opportunity in this bilateral relationship, and that is why I really com-

mend you to try to seize this opportunity and hopefully to have a migration agreement soon.

Senator BROWNBACK. Thank you. Thank you, Mr. Chairman.

Senator KENNEDY. Senator Specter?

Senator SPECTER. Thank you very much, Mr. Chairman.

Thank you, gentlemen, for your very helpful testimony and for this report on "Mexico-U.S. Migration: A Shared Responsibility." I think that this should be widely distributed. It would lend some substantial understanding to the issue.

Dr. de Castro, you said in your testimony here this morning that within 15 years there should be an easing of the pressure of Mexican migration into the United States. This migration has been going on for a very, very long period of time, obviously because of the advantages of the U.S. economy and the better jobs here.

What is your basis for saying that there is an expectation that after 15 years there will be an easing or perhaps no longer this kind of a problem?

Mr. DE CASTRO. Yes, it is one of the most—it is very difficult as an academic, and you know this as a policymaker, to try to understand what causes migration. But what I was saying in my testimony is that finally Mexico is finishing up its demographic transition. The U.S. did it 40, 50 years ago. Mexico is only doing it right now. So that means that at that working age there is going to be fewer Mexicans, dramatically fewer Mexicans now entering into that working age. At least the demographic pressure is going to ease in the next 10 to 15 years. I don't know about economics. I prefer to not do economic projections or forecasts because economists are usually wrong, and my university is very well known in Latin America for its economics department. They are always wrong. So that is why I am only talking here about demographic projections, and on that we are certain Mexico is in the last stage of its transition, demographic transition.

Senator SPECTER. Dr. Papademetriou—

Mr. DE CASTRO. Now, if you—sorry, Senator. Now, for example, Mexico's growth rate is 1.7, and that will be dramatically reduced in the next years, and because now it is only 1.7, that would allow us to project that in 10 to 15 years those Mexicans entering into the age 15 years old or older, it is only going to be half of what they are right now. Sorry to interrupt you.

Senator SPECTER. Dr. Papademetriou, I would be interested in your response to the issues raised by so many of my constituents. I had said that in the month of August and travels through town meetings this issue of illegal immigration comes up again and again, really sort of surprising to me that it does so. We have had the North Atlantic Free Trade Agreement, so-called NAFTA, and there is very, very substantial unrest that I find about it, tremendous labor opposition to it in my State. I supported NAFTA because I think that, notwithstanding temporary dislocations, in the long run it will be beneficial. It will stimulate the economies of both countries, and in the long run, the United States will be better off if we have a Mexico which is much stronger economically. But I come back to a point of substantial unrest among the people about it.

Now, you have the well-known economic downturn which is gripping this country today, and while analytically I think it is supportable that the Mexican migrants are important, are playing an important role in filling jobs, what is your response to the people who are losing their jobs, are concerned about NAFTA, and then the suggestion which Dr. de Castro makes to legalize 3 to 3.5 million illegal immigrants?

Mr. PAPADEMETRIOU. Thank you, Senator. Let's start with your last point, this 3 or 3.5 million—whatever that number might be of people who are already here—they are working here. To suggest somehow that if we removed that population or part of that population jobs would become available simply to U.S. workers, by that I mean anyone who is in the United States legally and has an opportunity to take those jobs, falls under—

Senator SPECTER. I agree with you that that is the rational response. But how do you respond to the concerns of people that say we play by the rules and they don't, and why should we consider this legalization or amnesty?

Mr. PAPADEMETRIOU. Well, playing by the rules is an extremely important argument. I never downplay it because we are committed as a country to playing by the rules, to obeying the law. But I have not heard in the past 15 or 25 years that I have actually been studying these issues an alternative to what it is that is being discussed here today. I have not heard anyone that suggests that somehow we are going to take these people and kick them out of the country because we tried that, as you may recall, in the 1950s and we created extraordinary difficulties for American families and U.S. citizens.

So this is about facing the facts and trying to come up with a reasonable way through which people who have been contributing to the economy and, indeed, have become part and parcel of American communities, the communities in which they live, to earn the right to stay here. That is why we are putting the emphasis on earning that right.

Some people may choose not to try to or may not qualify for that, and that would require—when the conversation advances—conversation about what is the best means to deal with those people who either don't qualify or choose not to play by the rules. Because ultimately, at the end of the day, you know this at least as well as I do, we are also going to have to rethink how to have a better law that is enforceable to try to ferret out the employers and people who continue not to play by the rules.

Senator SPECTER. Dr. de Castro, yesterday Mexican President Fox talked about having the Mexican migrant workers returned to Mexico. And I note in your report there is a statement that, "The Fox administration has shown increased interest in encouraging Mexican immigrants to increase their remittances to Mexico," which shows an interest on the part of the Mexican Government in having migrant workers in the United States who earn funds and can remit.

The topic of the report is "Mexico-U.S. Migration: A Shared Responsibility." To what extent, Dr. de Castro, does Mexico seek to prevent Mexican migrant workers from coming illegally into the United States as part of a shared responsibility?

Mr. DE CASTRO. I will say as much as the government can do it. It won't be easy, but there are ways to do it. For example, what Mexico, what the government is already doing is discouraging migrants to cross through dangerous zones. By the Mexican Constitution, the government cannot impede Mexicans to go out of the country, but there are ways to do it, by developing economic regions, by regulating airlines coming towards Tijuana. There are ways to do it, and they are willing to do it. It won't be easy. But I see the commitment.

What we are talking about the remittances there is the commitment of the Fox administration to reduce what migrants have to pay to send money back to Mexico. They are very committed to it. There are very few firms doing this. One of them is Western Union, and it is very expensive for them to send money to Mexico. And it is not only a problem for Mexico, but it is a big problem for Central America. And that is where they are trying to come up with new ideas in how to do this in a cheaper way, and also how can they help—or put some more money by the government or international institutions that will truly help these remittances to be used as development money, not only for consumption.

If you will allow me to say, when you were talking about NAFTA, it seems to me that NAFTA stops short in creating a mechanism to help those affected by NAFTA, and it seems to me that now, in retrospect, when we look at NAFTA, NAFTA made a big mistake, and that is, they took out of the negotiation migration and energy. Those are the two topics that we are negotiating now, and it is very important, if we are truly committed to having a North American economic region, we have to have an agreement on migration as well as on energy. It won't be easy for Mexico because it is very sensible to the Mexicans to talk about energy. To us it is very close to our nationalistic heart. But now the Mexican Government is having conversations with the U.S. Government regarding energy.

Senator SPECTER. Thank you very much, gentlemen. My red light is on. I would just like to say that I am not going to be able to stay for the entire hearing. I do think it is very productive, and I will be studying the transcripts and looking for some answers to these tough issues.

Thank you very much. Thank you, Mr. Chairman.

Senator KENNEDY. Thank you very much.

Thank you. We will submit some additional questions. You have been very, very helpful, and we are going to be calling on you for guidance as we move ahead. Thank you very much.

Mr. PAPADEMETRIOU. Thank you, Mr. Chairman.

Mr. DE CASTRO. Thank you. I will leave a copy in Spanish.

Senator KENNEDY. That will be very helpful.

I would like to welcome our second panel: Mr. John Sweeney, president of the AFL-CIO; Thomas Donohue, president and CEO of the U.S. Chamber of Commerce; Raul Yzaguirre, president of the National Council of La Raza.

It is an important occasion when we have labor, business, and immigration leaders stand together in support of legislative reform. Although their presence on this panel speaks for itself, we look forward to their testimony. We are very grateful to all of them for

joining with us here this morning, and we will start with you, Mr. Sweeney, if you would be good enough.

**STATEMENT OF JOHN J. SWEENEY, PRESIDENT, AFL-CIO,
WASHINGTON, D.C.**

Mr. SWEENEY. Thank you very much, Mr. Chairman and members of the Committee. On behalf of the AFL-CIO, thank you for the opportunity to discuss one of the most important issues we face, our Nation's immigration policies. I am happy to say that I just came from a meeting with President Fox to discuss this very same issue.

Members of the Committee, workers in the United States are, as you know, a rich tapestry of every race, gender, ethnicity, and immigration status. We have our differences, but we share common values and hopes: better lives for our families, the opportunity to hold good jobs in safe environments, and work that accords us dignity and respect, free from discrimination.

These fundamental aspirations of the human spirit do not distinguish between workers based on immigration status. Nor, we believe, should we.

The United States is a Nation of immigrants, yet we daily visit injustice upon new arrivals to our shores, a cruel irony not lost on those of us who are the children of immigrants. My own parents came here from Ireland. My personal feelings are greatly influenced by their experiences. Indeed, it was those experiences that drew me to unions. I saw firsthand the powerful role immigrants play within unions and the equally powerful role unions play in improving the lives of immigrant workers.

Today, growing numbers of immigrants are once again winning a voice at work through unions. We are honored to welcome them to our ranks. In recent statements, the AFL-CIO Executive Council has placed our movement squarely on the side of immigrant workers. We believe the principles outlined in those statements should inform national policy as well. First and foremost, undocumented workers and their families should receive permanent legal status through a new legalization program that extends to all the undocumented among us regardless of their country of origin. It is unacceptable that upwards of 8 million people live and work here without the full protection of the law, constantly at risk of exploitation and abuse.

Our current policy ignores the fact that many undocumented workers contribute to the national economy, have children who are U.S. citizens, and are long-term, law-abiding members of their communities. As a matter of fundamental justice, undocumented immigrant workers who have worked hard, paid taxes, and contributed to their workplaces and communities should be allowed to adjust their status to legal permanent resident.

Second, the current system of employer sanctions and the I-9 verification should be repealed and replaced with a system that targets and criminalizes business behavior that exploits workers for commercial gain and that provides protections for undocumented workers who file well-grounded complaints against their employers. I think no one can credibly dispute that the current system has failed. It encourages manipulation by unscrupulous em-

employers who hide behind it to exploit and intimidate workers. It has not deterred the flow of undocumented workers into the United States and almost no employer ever experiences a penalty or sanction.

Third, immigrant workers should enjoy full workplace protections, including the rights to organize into unions and to seek vindication of their workplace guarantees free of employer intimidation. Undocumented workers typically fall through and outside the Nation's worker protection safety net. The constant threat of deportation serves as a velvet hammer employers can wield not only to deny basic rights, but also to deter these workers from filing complaints. Since most labor standards investigations arise from complaints, employers can deny rights and protections for undocumented workers with virtual impunity or, almost as perverse, call the INS to report undocumented workers after learning of organizing campaigns or labor standards complaints.

Instead of punishing workers, immigration and labor standards policies should specifically penalize employers who break the law and, just as specifically, protect workers who uphold the sanctity of our legal system by pursuing their labor and employment rights.

Finally, guest worker programs should be reformed but not expanded. We do not agree with policymakers who argue that a new guest worker program is the antidote for our current failed immigration policies.

As I noted, the first order of business should be to give access to permanent legal status to immigrants who have been living and working in this country, paying taxes, and contributing to their communities. We are deeply troubled by proposals to lift restrictions on recruiting and hiring low-wage, low-skilled foreign workers while conferring only limited protections on those workers and prohibiting them from seeking permanent residency. Any temporary worker program must ensure full workplace protections for temporary workers, must include a path to permanent legalization for those who want it, and must not be based on a temporary worker's relationship to a single employer. Such a program must also include a real and meaningful labor market test to guarantee there are no U.S. workers for the jobs.

I will close much as I began: Union members know that the fortunes and futures of all workers in the United States are linked. If undocumented workers have no practical choice but to accept sub-standard pay and working conditions, their U.S. counterparts will eventually be relegated to such conditions as well. We know that when we act to strengthen protections for the most vulnerable among us, we build a movement and a system that is stronger for all of us.

Thank you.

[The prepared statement of Mr. Sweeney follows:]

STATEMENT OF JOHN J. SWEENEY, PRESIDENT, AFL-CIO, WASHINGTON, D.C.

On behalf of the AFL-CIO, thank you for the opportunity to be here today to discuss one of the most important issues we face as a Nation and a people, our policies with respect to immigrants and immigration. The scores of unions that make up the AFL-CIO represent over 13 million working men and women of every race, ethnicity, and immigration status. Knitting together this rich tapestry of color, language and country of origin are shared values and hopes: All workers want to pro-

vide better lives for their families. All of us want the opportunity to hold good jobs in safe environments, which pay a living wage and provide reliable health care and retirement benefits and a chance to better ourselves through education and training. And as much as anything else, workers here and around the world want to be treated with basic dignity and respect, free from persecution and harassment based on who we are or where we come from. These fundamental aspirations of the human spirit do not distinguish between workers based on their immigration status. Nor, we believe, should we.

The United States is a Nation of immigrants. Now as in the past, immigrants enrich our lives, contributing energy, talent and commitment to making our economy more vibrant; our workplaces more productive; and our nation, better and stronger. We will be better still, if we move forward with courage, compassion and conviction to shape a new immigration policy that protects the rights and promotes the interests of all those who live and work in the United States, contributing to their families, their communities, and the Nation as a whole.

The Special Relationship Between Unions and Immigrants: American workers and their unions are indebted to earlier generations of immigrants who, in their determination to fight exploitation and abuse, founded the union movement and in so doing, improved working conditions and living standards for all working families. Today, growing numbers of immigrant workers are once again winning a voice at work by joining together into unions. Last year, 10 percent of all union members were foreign born, roughly mirroring immigrants' share of the population overall.

Many immigrants work in low wage occupations for which the Bureau of Labor Statistics projects very substantial job growth over the next few years. It is no surprise, then, that AFL-CIO unions which represent workers in these industries—the Hotel Employees and Restaurant Employees Union, the Service Employees International Union, the Laborers International Union of North America, and the United Food and Commercial Workers—are also among those unions whose ranks are growing most.

Those of us in the union movement are proud and honored to count these immigrant workers in our ranks. We know that for many immigrants, a union card is the first and best line of defense against exploitation. In the AFL-CIO's Labor Day survey on *Workers—Rights in America*, most workers of color—86% of Latinos, 85% of African-Americans, and 83% of Asian workers B said recent immigrants are more likely than other workers to be treated unfairly by employers. And immigrant workers (especially Latinos) were more likely than workers overall to say workers need greater protections of their rights on the job. We know that the workplace is stronger, fairer and safer not only for immigrants and others most vulnerable to abuse, but for all workers when the rights of every worker are equally protected and enforced.

Union membership also often offers immigrant workers, especially those at the bottom of the economic ladder, the greatest chance to share in the American dream. In general, workers represented by unions earn higher wages and are far more likely to have employer-provided health insurance than non-union workers in similar jobs. In low wage occupations where many immigrants work—as laborers and agricultural employees, for example—workers represented by unions earn wages 56% to 59% greater than their nonunion counterparts. Ninety percent of all union members have health insurance, compared with 76% of nonunion workers. Job-based access to health insurance is particularly important to immigrants, who are more likely than other groups of workers to be uninsured.

We recognize and acknowledge that occasionally in the past, there has been resistance within our own ranks to new groups in society and in the workplace. Early in the history of the labor movement, U.S.-born workers resisted Irish workers, whom they feared would take their jobs at lower wages. African American and women workers faced similar resistance and fears. In each instance, however, understanding and inclusion of these workers in the union movement energized us and made us stronger. We believe the time has come for our movement and our Nation to accord more recent immigrant workers that same understanding, inclusion and opportunity to become full participants in their workplaces and communities.

Principles of Immigration Reform: More than a year ago, in February 2000, and then again just last month, the AFL-CIO Executive Council firmly and squarely placed the union movement on the side of immigrant workers. In statements adopted without dissent, the Council set out our view that immigrants have played and continue to play an extremely important role in the workplace and society, and that they are entitled to full and fair workplace protections. We believe the principles articulated in those Council statements should inform national immigration policy. Specifically,

1. Undocumented workers and their families should receive permanent legal status through a new legalization program;
2. Employer sanctions and the I-9 system should be replaced with a system that targets and criminalizes business behavior that exploits workers for commercial gain;
3. Immigrant workers should enjoy full workplace protections, including the rights to organize into unions and to seek vindication of their rights free of employer intimidation; and
4. Guestworker programs should be reformed but not expanded.

Legalization: The labor movement is increasingly concerned about the welfare of our undocumented brothers and sisters, as we are for all immigrant workers. As I have discussed, the relationship between unions and their immigrant members is mutual: unions make a tremendous positive impact on the lives of immigrant workers and their families, and immigrant workers have long been a vital part of the union movement. Immigrant workers have courageously stood with U.S. workers, leading organizing drives and assuming positions of leadership on both the local and national levels. The AFL-CIO supports efforts to legalize undocumented workers who contribute to their workplaces and community. In fact, a number of our international unions assisted many undocumented workers who adjusted their status under the last broad legalization program, the Immigration Reform Act of 1986 (IRCA).

It is unacceptable that upwards of 8 million people live and work in our country each day without the full protection of the law. Undocumented workers and their families are constantly at risk of being preyed upon by criminals, dishonest landlords, or unscrupulous employers, by those who believe they can get away with breaking the law simply because their victims are immigrants. But, undocumented people are not the sole victims when these laws are broken: All of us lose a bit of our own legal protections when entire categories of people are denied theirs. This is especially true in the workplace, where employers may sometimes seek to polarize workers based on race, ethnicity or national origin. In the face of such divide and conquer strategies, labor and employment laws are broken with impunity, wages and working conditions stagnate or fall, and worker progress overall is impeded.

As a matter of fundamental justice, undocumented immigrant workers who have worked hard, paid taxes and contributed to their workplaces and communities should be allowed to adjust their status to legal, permanent resident.

Under current law, only those undocumented individuals who can show they were U.S. residents since 1972, almost 30 years ago, may adjust their status. Even as we were putting the finishing touches on this testimony, the Senate still had not approved S. 778, extending section 245(i) to allow some undocumented people to adjust their status, thereby reducing the size of the undocumented population. Our current immigration policy ignores the fact that many undocumented workers contribute to the national economy, have children who are U.S. citizens, and are long-term, law-abiding members of their communities.

A broad legalization program must also allow undocumented people from all countries to adjust their status. The large number of undocumented Mexican workers is a consequence of the 2000-mile border and 300 year history our nations share. We recognize and cherish the bond and special relationship between our countries. And we value and respect Mexican migrants; they are hardworking and deserving. But so, too, are undocumented workers from Haiti, Guatemala, Poland, Canada and elsewhere. They also have stories to tell of their hopes and dreams for a future in the United States, and they also work hard and contribute to their communities each and every day.

Limiting a legalization program to one nationality will only further divide us as a people, and leave millions of workers and their families without the legal protections they deserve.

Repeal and Replacement of Employer Sanctions and the I-9 Verification System: The last legalization law enacted, IRCA in 1986, included provisions making it illegal for an employer to hire a worker without work authorization, imposing employer sanctions for violations of that law.

These provisions have not worked and should be repealed. Even though the object of employer sanctions was to punish employers who knowingly hire undocumented workers, and not the workers themselves, in reality employers have manipulated the program to violate federal and state labor laws and to discriminate against workers. The current situation not only harms all workers, but also those employers who face unfair competition from others who skimp on labor costs by hiring and then exploiting undocumented workers.

I think no one will contest that employer sanctions have failed. They have not deterred the flow of undocumented workers into the United States, and almost no em-

ployer ever experiences a penalty or sanction. In 1999, the General Accounting Office reported that only 17% of lead-driven cases resulted in any sanction or penalty against employers who had violated the law, and that INS collected only 50% of the fines that were levied. During the same period reviewed by the GAO, only 2% of all investigations resulted in a criminal penalty.

Complementing the employer sanctions program is the I-9 form, which verifies an individual's authorization to work. Employers are required to keep these forms on file for inspection by the Immigration and Naturalization Service (INS). In addition to the paperwork burden it imposes on employers, the I-9 system does not protect workers or prevent the hiring of the undocumented. Workers sometimes falsify records in order to comply with the verification requirements. And, many employers are cavalier or worse in their own compliance, sometimes encouraging or condoning falsification, only to "discover" it later, when the workers begin to push for higher wages and better working conditions. Like the system of employer sanctions, the I-9 verification system has not worked and should be scrapped.

Finally, shortly after IRCA's enactment, it became clear that numerous workers, mainly Asian and Latino, faced discrimination by employers who assumed the workers lacked legitimate work authorization because they "appeared" foreign or spoke with accents. In effect, a system designed to penalize one form of unlawful behavior promoted another.

Although employer sanctions did not create the problems of exploitation and discrimination, they have contributed significantly to the inability of immigrant workers to enjoy and enforce the most basic of labor and workplace rights. Having failed to fulfill their central purposes and, indeed, having set back the progress of workers generally, employer sanctions must be repealed. The current system of employer sanctions and I-9 verification should be replaced with a new scheme that punishes those employers who deliberately break immigration and labor laws for economic gain. We should increase criminal penalties for employers who knowingly recruit undocumented workers and participate in document fraud for business advantage. Moreover, to help ensure the new scheme works and to avoid the manipulation that characterizes the present system, it is essential that immigrant workers, who risk unfair deportation when they stand up for their rights, receive protections when they file well-grounded complaints against their employers.

Full workplace rights: In theory, all workers, regardless of immigration status, enjoy most of the basic rights and protections under the Nation's labor and employment laws. In reality, though, undocumented workers typically fall through and outside this safety net—a result that all too often occurs not by accident, but by design. The constant threat of deportation serves as a velvet hammer employers can wield not only to deny basic rights, such as the right to earn the minimum wage, but also to deter undocumented workers from filing complaints. And since most labor standards investigations are complaint-driven, employers deny rights and protections for undocumented workers with virtual impunity.

In many instances, employers call the INS to report undocumented workers only after they get wind of organizing campaigns or labor standards complaints. Upon learning of organizing efforts or that immigrant workers have filed wage and hour, OSHA, or EEOC charges, employers who have shown no interest in complying with any other labor law suddenly become converted to the sanctity of the ban on hiring workers without work authorization. In a sense, employers determine immigration enforcement policy by alerting the INS whenever workers seek to exercise their employment and labor rights.

Union organizers have faced this tactic when they try to organize workplaces that are comprised predominantly of immigrant workers. It takes a lot of courage for workers to come forward and openly fight for a voice at work through a union. The Human Rights Watch stated in its report *Unfair Advantage: Workers-Freedom of Association in the United States under International Human Rights Standards*, that many U.S. workers—who try to form and join trade unions to bargain with their employer are spied on, harassed, pressured, threatened, suspended, fired, deported or otherwise victimized in reprisal for their exercise of the right to freedom of association. The threat to immigrant workers is even greater: they risk not only job loss, but also possible deportation if they exercise their right to form a union.

In fact, using the threat of INS enforcement to chill worker activity has been a disturbingly prevalent business practice since the implementation of employer sanctions. I would like to give you a couple of the many examples of employers who tried to use the immigration laws to deny worker rights:

In 1997, the UFCW began an organizing campaign at the Smithfield Packing Company in North Carolina. Racial and ethnic separation characterized assignments at Smithfield Packing: white workers held mechanical or supervisory jobs, Native Americans worked in the warehouse, and African

Americans and Mexican immigrants were consigned to the “dirty” and dangerous jobs of slaughtering and butchering animals. When UFCW first began its organizing drive, the company fired African American union supporters, and replaced them with Mexican immigrant workers it believed would not vote for union representation. Just before the vote, Smithfield segregated the workers into different rooms by race, then singled out the Latino workers for questioning regarding their immigration status, threatening to call the INS and have them deported. The morning of the union vote, county deputy sheriffs in riot gear lined the plant gates. Not surprisingly, the union lost the vote, but earlier this year, the NLRB set aside the results and ordered a new election. The Board also found that the company illegally fired 11 workers because of their union activities.

Two weeks ago, the EEOC sued DeCoster Farms, an egg processing plant located near Clarion, Iowa. The EEOC charged that Latina workers were repeatedly raped by their supervisors and threatened with firings, deportation, or even murder if they reported the crimes. The EEOC is also investigating charges that the women were paid less than male workers and were denied access to water or breaks as required by law. The supervisors are all male and bilingual. One of the supervisors named by the EEOC as a perpetrator in the rapes was also arrested last week by the INS and charged with harboring unauthorized workers during an immigration enforcement raid that occurred in April. The workers, who speak little or no English, live in rural Iowa where they are isolated geographically and culturally. Some of them have apparently quit their jobs and are currently living in a domestic violence shelter.

Instead of punishing workers, immigration and labor standards policies should specifically penalize employers who break the law and protect workers who uphold the sanctity of our legal system by pursuing their labor and employment rights. We need to ensure that all workers, regardless of their immigration status, are made aware of their rights and of the means to vindicate them. And immigrant workers should have specific protections against employers who try to use the workers’ immigration status to block their efforts to form a union or to otherwise exercise basic workplace rights. Workers should be protected against deportation when they file a labor standards complaint unless the INS can prove that the deportation proceedings are in no way related to the workplace situation, and that the complaint was not filed in bad faith to avoid deportation. Agencies such as the Department of Labor should be required to keep confidential any information they learn about a worker’s immigration status during an investigation or proceeding enforcing labor rights. The INS should be prohibited from proceeding with workplace investigations during a labor dispute. Finally, in order to better target investigations and enforcement, the Departments of Labor and Justice should be required to conduct a study of industries that employ undocumented workers, and the exploitation of undocumented workers by their employers.

Of course, continued inadequate funding for labor standards enforcement will hamper the measures I have outlined above. Funding for labor protection activities has not kept pace with labor force growth during the 1990’s. We must reverse that trend and fund these programs adequately, if we are to ensure full workplace rights and protections for all.

Reforming guestworker programs: Some policymakers have advocated a new guestworker program as the answer to the problems associated with our current failed immigration policies. We do not agree. Before there is any serious consideration given to a new guestworker program, immigrants who have been living in this country, holding jobs, paying taxes and contributing to their communities must be given access to permanent legal status.

Beyond that, we are deeply troubled by the guestworker proposals some are advocating, which would lift restrictions on recruiting and hiring low wage, low skilled foreign workers, while conferring only limited protections on these workers and prohibiting them from seeking permanent residency. We recognize that some workers want to return to their native countries and should be able to do so, but any new temporary worker program must include a path to permanent legalization.

A new guestworker program built on the failed policies and models of the past cannot be the centerpiece of our national immigration policy. Analyses by DOL, GAO and others have found that despite employers’ claims to the contrary, guestworkers earn less than their U.S. counterparts. Years of low wages facilitated by the *bracero* and H-2A programs and easy access to undocumented workers have left U.S. agricultural workers with wages that actually fell during the last economic expansion, a time when virtually all other low wage, low skill workers saw their

incomes rise. An INS report to Congress verified that even highly skilled H-1B visa holders in the IT industry earned less than U.S. workers in the same occupations.

Guestworkers regularly face many of the problems associated with contingent employment: lower pay, no benefits and intentional misclassification of employment status.

President Bush has suggested that guest worker programs merely match willing workers to employers who are willing to hire them. The President's statements, however benign sounding, do nothing to address the serious failings of guestworker programs, or the need to test the U.S. labor market first, to assure that there are no domestic workers interested in the positions. Nor do the President's statements recognize that often guestworkers are only willing to take jobs at below the going rate because they are desperate to come to or stay in the United States.

Guestworkers are tied to an employer or industry or occupation in a way that other workers are not. That alone makes them extremely vulnerable. While guestworkers are covered by most labor and employment laws, the nature of their tie to their employer makes these protections more fiction than reality for most. Hence, any guestworker program must include and protect all the workplace rights that U.S. workers enjoy. In addition, a new guestworker program based entirely on a worker's relationship to his or her employer, resulting in a system of virtual bondage for many, is unacceptable.

Additional Concerns: We recognize that the issues we have discussed touch on just a few aspects of national immigration policy. Our current legal immigration system for family members, for example, is in shamefully bad shape. Whether addressing family reunification backlogs or processing applications for those seeking to adjust their status, the INS needs adequate funding specifically dedicated to benefits and services. The promise of legalization is only real when the agency administering the program has properly trained staff, reasonable regulations that are consistent with the letter and spirit of the law, and the funding necessary to process applications in a fair and efficient manner.

CONCLUSION

Unions are playing an important role in bridging the gap between immigrant and non-immigrant workers. We know that the fortunes and futures of all workers in the United States are linked: If undocumented workers have no practical choice but to accept substandard pay and working conditions, their U.S. counterparts will eventually be forced to accept such conditions as well. There is no protection for any worker when some workers have freedom to exercise their labor and employment rights and others do not.

Unions have already begun the process of bringing workers together and encouraging open and frank discussions in the workplace and in our communities. We believe this dialog fosters the respect and brotherhood necessary for our country to move forward, even as our demographics change.

And we know that when we act to strengthen protections for the most vulnerable among us, we build a movement and a system that is stronger for all of us.

Senator KENNEDY. Thank you very much, Mr. Sweeney. We look forward to inquiring of you in just a few moments.

Mr. Donohue, we are pleased to have you. We know you interrupted your break to join with us here today, so we appreciate your presence.

STATEMENT OF THOMAS J. DONOHUE, PRESIDENT AND CHIEF EXECUTIVE OFFICER, U.S. CHAMBER OF COMMERCE, WASHINGTON, D.C.

Mr. DONOHUE. Thank you, Senator. I am very pleased to be here with my colleagues to discuss an issue of critical importance to the future well-being of this country, and that is immigration reform.

John Sweeney and I testify together from time to time, and from time to time we agree. We agree on this issue from different perspectives, but the fact is that we realize there needs to be change in the immigration system, and it needs to be done for the benefit of the country.

There are two primary reasons why immigration reform in my view is so important. First, an expanding economy, a declining working-age population, and an impending retirement of the baby-boom generation have all combined to create a current and future workplace shortage that, if left unchecked, will cripple American business, especially small ones, and severely impede economic growth. And I would like to—the chairman in his other work in the Senate is very, very involved in the whole question of entitlements—health, pensions, Social Security, and so on. And if you look at the extension of life expectancy in this country and the extraordinary number of collectors we are going to have in the next years in relation to the shrinkage of the people that are prepared to work here and pay taxes here, you find that this Nation, because of its population change, because of its societal changes and these retirements that we are expecting, has got a great opportunity to do important things but has a tremendous challenge of where we are going to get the workers of the future.

More than 60 million current employees will likely retire over the next 30 years, and the Bureau of Labor Statistics projects that people on the labor force age 25 to 34 is going to decline by 2.7 million just over the next 7 years. Improving productivity, recruiting non-traditional employees such as the disabled, and taking people from welfare to work, luring retirees out of retirement because they are going to be around for a long, long time, and creating incentives for people to work longer on a voluntary basis are all part of the solution. But it is not going to happen without some very, very serious increases in immigration. We won't close the worker shortage without filling that gap on the immigration side.

Now, as John indicated, there are 8 or 9 or maybe 10 or 11 million undocumented immigrants working in America. Now, why are they here? Were those jobs created because they came here? No. Those jobs are here. And where are they? They are in hospitals. They are in the fields. They are in factories. They are in McDonald's. They are in all sorts of places where today we are unable to get sufficient workers. Many jobs are left unfilled in this country, and they are essential jobs. I have some involvement personally in the retirement and the health care business in terms of nursing homes. You take those 8 million employees, 9 million, 10 million, and you put them out of the country tomorrow, this economy, and particularly the service economy in this country, is going to stop dead in its tracks.

Now, John's views about protecting them, many of those I share. And John's views about—and I would let him speak for himself, but, you know, he sees a wonderful opportunity to continue to grow his own institution. And I respect that. But even though we have two different reasons for doing this, I think collectively we have an essential reason for doing it, and that is, we need to keep the American economy going and we need to keep the service industries that American citizens need in place.

We have a wonderful H-1B visa program to get, you know, the skilled workers we need, the high-skill, high-technology. We bring 600,000 workers a year into the United States. But when you talk about all the things that we ought to be doing as a way to legalize and formalize and improve this system, you have got to be very,

very careful, Mr. Chairman, of where you put that responsibility. The INS works hard. They give the IRS a good name in terms of their ability to get things done in a timely basis. And if you look at what would happen, Senator Specter, if we took some of these people right now and put them on line to get a green card, you could be talking 6 to 10 years. So that is why a guest worker program makes some sense because you could put people in a program—and, John, I don't care what we call it—in a formal way with all the protections that you might like to give them, and over time we could be sure that they earn their way into the system.

On the matter that was discussed, very briefly, about Mexico and Canada and should they have a precedent, well, NAFTA has already demonstrated its essentiality by creating an extraordinary number of jobs in the United States. We are building a closer national security and national well-being and economic well-being in the NAFTA arrangement, and there may be a possibility to do something a little more creative there.

Let me hit the second issue. We need stability in the workplace. Right now today, in any of your States, an illegal worker coming into the United States for \$50 to \$100 can get a set of credentials that are so perfect that you would hire them in your own office if you had a little business there. And John indicated a number of issues where perhaps they are not treated well. And there are places where we just have to make sure that we are not leveraging people one way or the other, that we know who is working for us, we know they are legal, we know that we can count on them over a period of time.

Employers go to great lengths to make sure they are legitimate employers. By the way, we have people in every role of our society who we are not very excited about, and the Chamber of Commerce of the United States is not excited about every company in America. Some people behave the way we don't want them to behave. It is the same thing in John's organization. We want legitimate employment of people from other lands in a way that assures their rights and assures their safety and pays them in a comparable way that we would pay anyone else in the workforce.

But as I indicated, there is a lot of leveraging going on. If you try and follow the system by following the rules, if you deal—and, by the way, you know from your own offices, when you are trying to get a green card arranged for somebody where it is the most legitimate and thoughtful thing that it ought to be done, I mean, it is very, very difficult.

So here is my view: We need a temporary worker program but, more important, we need it so that we can figure out a way to transition from what we have to where we are going to get there. We need a transition system. And this might be a way to get around the problems with the INS and put a lot of people on a temporary worker program.

We need to be very, very careful to understand that—and, by the way, Senator Specter, when the demand for immigrants is the highest for us, when our demand for workers is the highest and our provision of workers is the lowest is when Mexico is going to be having fewer workers for us. So we are going to be finding other places to get them.

We need to understand we have to have those workers, or our economy doesn't work. And we need to figure out a way to do—I don't know whether it is an amnesty, whether it is an orderly transition to making these folks permanent workers. But we need to pick out the people that have paid their dues, that have paid their taxes, that have been good citizens, and find a way to do it. I would like to let John Sweeney have my way. I don't care what you call it. We need to get these workers legitimately into the United States economy and, gentlemen, you need more of them in the future, not fewer.

I understand a little economic downturn, a little unemployment. Some of that is in areas we are never going to be back in business. But many of those workers are not prepared to do the work that these immigrants are doing right now.

I would also say—and excuse me for taking just one other second—if we do this right, it is going to up the—it is going to stabilize the pay in this country, and I think it is going to up some of the pay in the lower-level jobs because we are not going to have this leveraging. Everybody gets paid the same. We know who they are, and I think you are going to be in business in a way that benefits everyone.

I don't know how the details get worked out, but we have an extraordinary staff. We are prepared to participate in that, Mr. Chairman. I think we set an excellent tone yesterday with President Fox and President Bush raising this subject. I believe the White House, by the way, is dragging its feet a little more than it should. I wouldn't say it is political considerations. But if they are, they are on the wrong curve, and they ought to get busy on this matter. And while some would suggest that they are great friends of ours, they are, but when they are wrong, we tell them. And they ought to move very, very quickly on this matter.

And so I am here because American business needs workers. John Sweeney is here because he understands that, but he would like to unionize them and protect them, God bless him. But, clearly, both of us understand a very simple issue: If we don't have workers here to run the American economy, that is a debate we can never have.

Thank you very much, Mr. Chairman.

[The prepared statement of Mr. Donohue follows:]

STATEMENT OF THOMAS J. DONOHUE, PRESIDENT AND CHIEF EXECUTIVE OFFICER,
U.S. CHAMBER OF COMMERCE, WASHINGTON, D.C.

Mr. Chairman, I thank you for inviting me to speak before the Committee today on the issue of immigration reform, specifically in the context of the historic new relationship between the U.S. and Mexico. I am Thomas J. Donohue, President and Chief Executive Officer of the U.S. Chamber of Commerce, a business federation representing more than 3 million individual companies and employers.

The subject of this hearing is the U.S.-Mexico Migration Discussions and as the title of the hearing states, we believe there is an historic opportunity to build closer relations with our neighbor to the South. Mexico is our second largest trading partner, after Canada, and last year accounted for 10% of all our international trade. And we are Mexico's largest trading partner, accounting for 82% of Mexican exports and 70% of Mexican imports. Our relationship, however, goes far beyond trade in goods and services. It entails extensive commercial, cultural, and educational ties, as demonstrated by the annual figure of nearly 340 million legal crossings from Mexico to the United States in the fiscal year 1999. In addition, more than a half-million American citizens live in Mexico. More than 2,600 U.S. companies have op-

erations there, and the U.S. accounts for 60% of all foreign direct investment in Mexico. Along the 2,000-mile shared border, state and local governments interact closely. We are therefore pleased that Presidents Bush and Fox are building upon this close relationship by cooperating on law enforcement, border management, economic development, and, of course, migration. With a shortage of workers in America, and a ready and willing workforce in Mexico, we have a unique opportunity to build a mutually beneficial immigration system. We need only to act.

The Chamber strongly supports immigration and believes that immigrants are a driving force in our economy, both filling and creating jobs. They are also our best hope to curb chronic American labor shortages that are impeding the economy. The Chamber has been involved in efforts to increase the immigration of skilled workers under the "H-1B" program, to facilitate international transfers of personnel by allowing spouses to continue their careers, and to repeal potentially harmful provisions such as Section 110 of the 1996 immigration act that would have created a new border bureaucracy that would have hurt trade and travel along our borders.

The Chamber has members in all industries, employers of workers at all levels, and we have been increasingly hearing from Chamber members across the country that workforce availability issues are among their top priorities. In fact, in testimony earlier this year before the Senate Immigration Subcommittee, Elizabeth Dickson, Human Resource Specialist for Chamber member Ingersoll-Rand Corporation, and Chair of our Subcommittee on Immigration, related her company's difficulties recruiting skilled welders, service and repair technicians, and tool and die workers. We also have members in the restaurant, hotel, health care, manufacturing, construction and other industries who have asked the Chamber for help in finding and keeping the "essential workers" that keep our economy running. Yes, knowledge workers are the driving force for development and expansion of ideas and products. However, once these ideas are developed and the ideas become products, essential workers are needed to manufacture, deliver and service those products. We still must answer the question: Who will fill the millions of essential worker positions that we will create? Immigration must be one answer, but current law does not provide the solution.

That is why the Chamber helped to found the Essential Worker Immigration Coalition (EWIC), comprised of organizations from across the economy, and continues to be a leader in that organization. For the Chamber, reform of essential worker immigration policy is a high priority.

I know the President and the Congress are concerned about the state of the economy, as are we. But you should know that the recent slowdown has not significantly impacted the need for these workers. Over the last few years, we have seen unemployment rates as low as any time since 1950, and some local and regional unemployment rates are under 2%. Employers continue to tell us they cannot find anyone to fill their jobs. According to a recent Employment Policy Foundation (EPF) study, the economy has more than 135 million jobs, and more than 9 million jobs have been created in the past five years. Further, workers who have lost jobs recently are finding new jobs at a faster rate than in the past—more than half find new jobs in seven weeks.

Furthermore, this issue is not just one of the boom and bust cycle of our economy. We are facing a long-term worker shortage that is based on demographics. Secretary of Labor Elaine Chao in her recent Labor Day address noted the phenomenon of the "Incredible Shrinking Workforce." Bureau of Labor Statistics (BLS) estimates show that the number of people in the labor force ages 25–34 is projected to decline by 2.7 million in the next seven years. By 2008, the labor force age 45 and older will have the fastest growth rate and be a full 40% of the labor force. BLS also projects that by 2008 we will have 161 million jobs, but only 154 million workers. More than 60 million current employees will likely retire over the next 30 years. The EPF report also discusses the coming labor shortage, projecting a shortfall of 4.8 million workers in 10 years, 19.7 million in 20 years, 35.8 million in 30 years. The economic impact of this shortage is already being felt. But according to the EPF, failure to close the labor supply gap will lower Gross Domestic Product growth by at least 3 percent in 10 years and 17 percent in 30 years.

Dr. Richard Judy of the Hudson Institute testified last February before a House Education and Workforce Subcommittee that:

"After 2011, the year in which the first of the Baby Boomers turns 65, their flight to retirement will reach proportions so huge as, barring unforeseen increases in immigration and/or participation rates among the elderly, to reduce the total size of the Nation's workforce."

In her Labor Day speech, Secretary Chao stated that not only must we find ways to integrate older workers, workers with disabilities, single moms and other non-

traditional workers into the workplace, but also we must look to immigration. In this, she has echoed a sentiment expounded by Federal Reserve Chairman Alan Greenspan over the last few years—immigrants are good for our economy and support our workforce. As Chairman Greenspan recently stated before the House Financial Services Committee in July of this year:

[T]his country has benefited immensely from the fact that we draw people from all over the world. And the average immigrant comes from a less benign environment, and indeed that's the reason they've come here. And I think they appreciate the benefits of this country more than those of us who were born here. And it shows in their entrepreneurship, their enterprise and their willingness to do the types of work that makes this economy function.

A February 2001 analysis by the Arizona Mexico Commission reached similar conclusions:

The bottom line is that if the U.S. economy is producing jobs faster than it is producing people to fill those jobs, foreign labor must be accepted as a viable solution to the labor shortage. In addition, we must acknowledge that the Baby Boomer population is aging, and the total U.S.-born population, without immigrants, is shrinking. All across the world, increased immigration is seen as one solution to boost the workforce that is needed to sustain economies. The foreign worker, both legal and illegal, has been an integral part of our inflation-free economic growth, and must be valued as a contributor to our strong economy.¹

We all now understand that immigrants are complementing our U.S. workforce, not displacing it. As we have made it a priority as a Nation for our workers to move into higher-paying, higher-skilled jobs, immigrant workers are filling the gap by taking many manual labor jobs that U.S. workers are avoiding.

Many have stated that this economy no longer needs lower-skilled workers. Nothing could be farther from the truth. Almost three-quarters of the jobs in our economy do not require a college degree. Close to 40% of the jobs require only short-term on the job training. Over the next ten years, the most job growth (i.e., in absolute terms) will be in occupations requiring less formal education or training. According to the Bureau of Labor Statistics, of the top ten occupations with the largest numerical job growth between now and 2008, all but two require less than a bachelor's degree; the majority (six) require only short-term on-the-job training. These include: retail salespersons, truck drivers, personal care and home health aides, and office clerks. The next ten occupations with the largest job growth include nursing aides, janitors and cleaners, waiters and waitresses, and food counter and related workers. The top thirty include childcare workers, landscapers and groundskeepers, hand packers and packagers. Finally, the top ten occupations with the greatest retiree replacement needs (this group includes the occupations in which the average age of the current workforce is rapidly rising) include the following: secretaries, truck drivers, janitors and cleaners, registered nurses, bookkeeping and accounting clerks.

These needs cut across industry sectors. The health care industry is facing severe shortages, not just of registered nurses, which is well documented, but also of certified nurse assistants, who provide 75% of the care in nursing homes and long-term care facilities, as well as hospitals. The industry will create jobs for 600,000 Certified Nurse Assistants and 300,000 others over the next five years. According to the Department of Health and Human Services, the nursing home industry has a current shortage of 400,000 health care workers. The hospitality industry is also facing many unfilled jobs: the hotel industry estimates it will need an additional 700,000 workers in the next decade. The restaurant industry is looking at creating 2 million new jobs in the next ten years. In the construction industries, roofers are looking at an additional 50,000 workers needed in the next decade. In transportation construction, for every \$1 billion invested in highway construction programs an additional 42,000 jobs are created.² Overall the construction industry is expected to create 550,000 new jobs between now and 2008, according to the Bureau of Labor Sta-

¹"Labor Shortages and Illegal Immigration: Arizona's Three-Pronged Strategy," Arizona-Mexico Commission, February 2001, pp. 4-5.

²The Chamber is working with labor in support of a newly formed national coalition, Americans for Transportation Mobility, comprised of more than 300 organizations and strongly supports improving the safety and efficiency of our Nation's transportation infrastructure system. Such improvements will undoubtedly create additional jobs in this industry and benefit all Americans.

tistics. The meat processing industry will create over 75,000 jobs. Transportation services—153,000.

Some will ask whether we have done everything we can to find workers for these jobs in the United States. The answer is yes, and we are continuing to do so. Through the Center for Workforce Preparation, the Chamber's non-profit affiliate, we have taken a strong role in addressing the critical shortages in the availability of skilled and unskilled workers that business is experiencing today. Current efforts of the Center include the following:

- Identifying and supporting programs that bring new sources of labor to "work readiness"—former welfare recipients, people with disabilities, recent retirees, and others.

- Partnering with Job Corps, the U.S. Departments of Labor and Education and others in efforts to develop worker training programs that address and meet current business needs.

- Helping the Chamber's federation of 3,000 state, local and metro chambers of commerce to effectively engage in workforce development by providing tools, models and best practices for implementation at every level. Especially critical in this effort has been the development of a school-to-career guidebook to ensure that tomorrow's workers have the skills to succeed.

- Informing businesses of the resources and opportunities available to them and their employees to obtain education and training.

Of course, I would be happy to provide the Committee members with additional information about these efforts, at your request.

The industries that we are talking about are some of the leaders in the Nation's welfare-to-work, school-to-work, and prison-to-work efforts. Because many of these jobs are entry-level, requiring little or no experience, and often few skills, they are the stepping-stone for many on their road to the American dream. Employers are doing everything reasonable they can to fill these jobs, but still the jobs are going begging.

Members of the Committee, I believe I have adequately demonstrated our need. Now we must look to solutions. As stated above, we continue to do all we can to ensure that we are utilizing our domestic workforce, but because of the current lack of available job applicants, and the future demographics that threaten our economy, we must look to our immigration system to help "fill the gap." However, as you are by now aware, our current immigration system does not allow us to access this potential pool.

We have a current temporary labor program, called the "H-2B" program. The H-2B visa is a temporary visa issued to individuals who will be working in temporary, seasonal jobs outside of agriculture. The H-2B process is a cumbersome and bureaucratic one that involves two separate agencies, a lot of paperwork, and often more time than the job itself will last. In the past, this red tape has meant that very few employers bothered to use the program, although in recent years its use has escalated due to the tight labor market.

While many employers do have seasonal needs and changes to the H-2B category are warranted to make it easier for employers to use, many more employers have year-round and long-term needs that are not fulfilled. Such employers seeking to hire foreign nationals for their job openings are out of luck, since no long-term temporary visa exists in our current system. There is no "H-1B" counterpart for essential workers, as exists for high-skilled jobs. If an employer has a long-term position, there is no legal mechanism to sponsor foreign nationals to fill that need.

If the employer would like to sponsor a lower-skilled worker permanently, he or she is, as a practical matter, out of luck. Current annual quotas limiting green cards to only 5000 green cards each year for persons coming to work in jobs that require less than two years of education or training mean a five to ten year wait.

In sum, we have a current situation in which our Nation has millions of jobs available, a decreasing workforce relative to the number of openings, and an immigration system that provides no practical legal mechanism for employers and foreign nationals to fill those openings. Is it any wonder we have such a large number of undocumented workers in this country?

And what about those workers? These individuals are here and working, many of them paying taxes.³ You may ask how are they working? The answer is simple. Under the current law, an employer must verify that each employee is eligible to

³For example, an April 15, 2001 article in the *Washington Post*, "Illegals Paying Millions in Taxes," noted that according to internal Social Security Administration documents, "Over the eight-year period, the mystery workers [presumed to be undocumented workers] were responsible for more than \$20 billion paid in Social Security taxes—but they received no credit for them. Their payments have helped contribute to the system's surplus. . . ."

work in the U.S. But the employees can choose which documents from the INS-approved list (set out on the so-called I-9 form) to present to support their claim that they can work legally. As long as the documents look valid on their face, the employer must accept them. To ask for additional documentation because someone may look or sound foreign is potentially a violation of that person's civil rights under both immigration and employment laws. Because of the prevalence of false, yet credible, documents, many employers simply do not know their employees are undocumented. Employers only learn of this situation after an INS raid, or when the Social Security Administration sends a so-called "no-match" letter telling them that their employee's records don't match the government's.

The result is that the employer must dismiss these employees, if they have not already left of their own volition.⁴ As you can see, to an employer who is already facing labor shortages, this instability in the workplace is adding salt to the wound.

So we have two major problems to deal with—filling the unfilled jobs, both now and in the future, and keeping our current workforce. In looking toward the U.S./Mexico discussions, we believe that any outcome must address both problems. That is why the Chamber supports a comprehensive approach to this issue. We must develop new, legal immigration methods, which, as President Bush has stated "match a willing employee with a willing employer."

We would support new temporary worker programs that would accomplish this ideal in a manner that is fast, efficient and fair to all parties concerned. While the specifics of how such a program would work are fair game for experts in the field, businesses want a system that is simple, easy to understand, and responsive to their needs in a timely manner. We also realize that protections to prevent possible abuses and to help ensure that the interests of American workers are protected must also be included. But the system must not become so encumbered with bureaucratic hurdles as to be, as a practical matter, unworkable.

We would also like some flexibility in the system. While a temporary worker program would allow individuals to begin work in the U.S. relatively quickly, and, further, to meet the needs of those individuals who wish to travel back and forth to their home country, there may exist situations where a "willing employer and a willing employee" would like the relationship to continue on a more permanent basis. There should be an ability for that individual, under certain circumstances, to have a path to permanent residence, a "green card."

Finally, we believe that those who have already demonstrated their commitment to the United States by living here, working and paying taxes, should have a means by which they can earn permanent residence. There are many possible ways to accomplish this that are being discussed by the policy-makers; but we simply want to ensure that some of our best workers can stay and continue their contributions to their employers and communities.

One final word. We understand that the current discussions are between the United States and Mexico, which befits one of the largest trading partnerships in the world. Our relationship with Mexico is, in many ways, unique. However, employers do not select their employees by nationality, and while a new temporary worker program may be useful to "test" with Mexico, especially if it envisions a specific role for the sending country's government, we would like to see other nations be able to participate as well in the near future. Moreover, when we are discussing the so-called "regularization" of individuals already in the United States, equity would seem to suggest that we allow nationals of other nations the same opportunity for lawful status. A proposal that would apply to a single nationality could very well prove unworkable and might lead to discrimination against other nationalities, for fear of their immigration status.

While the details of these proposals are yet to be worked out, we are very supportive of the discussions between President Bush and President Fox, and we are hopeful that an agreement may be reached that all parties represented here today will be able to support.

I welcome any questions you may have.

Senator KENNEDY. Raul Yzaguirre. We are glad to have you here, Raul. We look forward to hearing from you. It seems you have wrapped your arms around Tom Donohue and John Sweeney, too.

⁴The case of one roofing contractor in the Northwest illustrates the point. The INS came in to "audit" this company's employment verification records. Although the INS found no violations by the employer, it was told that a large portion of its workforce was undocumented (most of whom had already fled). The employer told the INS agents that these were some of his best employees, and that they would only go to work for his competitors, which indeed they did. The INS' only response was that this was "standard procedure."

Senator BROWNBACK. That would be a nice picture, if you wanted to end up that way. That would be a good picture.

Mr. DONOHUE. Actually, he is from Ireland as well.

Senator BROWNBACK. Oh, so this is now an Irish panel.
[Laughter.]

**STATEMENT OF RAUL YZAGUIRRE, PRESIDENT, NATIONAL
COUNCIL OF LA RAZA, WASHINGTON, D.C.**

Mr. YZAGUIRRE. Mr. Chairman, with your permission, I would like to summarize my testimony and ask that the full text of my comments be inserted in the record.

First of all, let me associate myself with the comments of you and the other members of the Subcommittee. You almost made my testimony for me. Also, let me thank you and congratulate you for passage of 245(i). We really appreciate that piece of legislation.

My name is Raul Yzaguirre. I am the president of the National Council of La Raza, the Nation's largest Latino civil rights organization. I appreciate the opportunity to appear before the Subcommittee today.

Mr. Chairman, I want to make it very clear that I believe that Congress has a major opportunity to shape immigration policy in a way which makes sense and serves the national interest. It is almost impossible to describe to you how important this opportunity is to the Nation's Hispanic community. When the news broke that the Bush administration might be considering a legalization program, NCLR was opening its annual conference in Milwaukee. The thousands of Latino leaders gathered there were electrified by the news. The response from within our community, as demonstrated by polls, media coverage, organizing, and energy in communities throughout the country, has been truly extraordinary.

Mr. Chairman, let me be clear. Latinos agree with the fundamental underlying principle of the immigration debate, which is that as a sovereign Nation, the United States can and should control its borders. However, we also believe that the enforcement of immigration laws, like that of all laws, must be non-discriminatory, fair, and consistent with American values.

Over the last 15 years, our immigration laws have been based on the premise that there is no place in the United States labor force for migrants from Mexico and other countries. Clearly, that premise is wrong. Despite an increasingly harsh enforcement regime, immigrants have made an important place for themselves in the labor force.

NCLR believes that negotiations between the United States and Mexico and the congressional debate they have inspired provide an historic opportunity to reshape immigration policy in a way that is responsive both to labor market needs in the United States and the needs of immigrants themselves. My written statement contains a set of six policy principles for your consideration. I will highlight two of them for you now.

Number one, legalization must be a major element of any policy change. A substantial number of undocumented immigrant workers are long-term U.S. residents. They work hard, pay taxes, and otherwise abide by our laws. Their futures are inextricably linked with ours. The interests of the U.S. are best served by allowing these

long-term residents to come out of the shadows. Those who can demonstrate that they have made commitments and have linked their future to America's future should be afforded the opportunity to legalize, regardless of where they are from.

Number two, any temporary worker program that might emerge from this debate must be markedly different from the status quo. We acknowledge the reality that some undocumented workers have come to the United States with the intention of returning to their home countries. They do not seek to be permanent immigrants and often end up trapped in the United States because our border control policies make it too difficult to depart and re-enter, swelling the ranks of the undocumented. It is reasonable, then, to construct a temporary worker framework, particularly to regularize future worker flows. However, this must be markedly different from the existing temporary worker construct. In particular, it is essential for any workers who participate to be fully covered by U.S. labor laws, including the right to change employers, strong protection for wages and working conditions, the right to unionize, and the ability to keep their families together. Similarly, it is essential that such laws be vigorously enforced, by strengthening the Wage and Hour Division at the United States Department of Labor, as well as by ensuring that these workers have access to legal services. Finally, any temporary worker program must also include a path to adjustment of status for its workers; that is, if their labor is needed here year after year, they should be able to choose to remain in the United States as immigrants, having demonstrated that their labor is of value here.

In conclusion, Mr. Chairman, the United States stands at the threshold of an important opportunity to finally bring rationality and justice to its immigration laws after decades of failed experiments. Our current immigration law is inconsistent with our economic interests, undermines our fundamental values, and is riddled with hypocrisy. Americans know that we rely on the labor of these hard-working people, and there is strong evidence that they are likely to support your leadership in doing something about it. Some say we should do nothing, arguing that legalization would "undermine the rule of law." But it is hard to imagine any situation more likely to encourage disrespect for the law than the hypocrisy inherent in the status quo.

Mr. Chairman, the discussions between the United States and Mexico have left open the door to the possibility of reform and the enactment of an immigration law that begins to realign our immigration laws with America's best traditions and values, as well as the economic realities that drive migration. I urge you to move forward and make these reforms a reality.

Thank you very much, Mr. Chairman.

[The prepared statement of Mr. Yzaguirre follows:]

STATEMENT OF RAUL YZAGUIRRE, PRESIDENT, NATIONAL COUNCIL OF LA RAZA,
WASHINGTON, D.C.

INTRODUCTION

My name is Raul Yzaguirre; I am the President of the National Council of La Raza (NCLR). NCLR is a private, nonprofit, nonpartisan organization established in 1968 to reduce poverty and discrimination and improve life opportunities for His-

panic Americans. NCLR is the largest constituency-based national Hispanic organization, serving all Hispanic nationality groups in all regions of the country through our network of over 250 affiliate community-based groups and regional offices. NCLR has supported fair and effective immigration policies for over two decades, and has provided a fact-based Latino perspective on the issue of immigration. NCLR approaches this issue as a civil rights organization, with an interest in protecting the rights of our constituency within the United States and promoting the values and principles of the Nation as a whole. I appreciate the opportunity to appear before the Subcommittee today.

Mr. Chairman, I want to make it very clear that I believe that this committee, the Congress as a whole, and the Bush Administration are poised on the verge of a major opportunity to shape immigration policy in a way that makes sense and serves the national interest. It is almost impossible to describe to you how important this opportunity is to the Nation's Latino community. I can tell you that when the news broke that the Bush Administration might be considering a legalization program, NCLR was opening its Annual Conference. The thousands of Latino leaders gathered for the Conference were electrified by the news. The response from within our community, as demonstrated by polls, media coverage, organizing, and energy in communities throughout the country, has been extraordinary. I can also say that my colleagues in the National Hispanic Leadership Agenda (NHLA), a coalition of the major organizations in the Latino community, have spoken out on the issue in letters addressed to President Bush, President Fox, and the U.S. Congress. I have attached a copy of these letters to my written statement.

The reason for the intensity of focus within the Latino community on this issue is only partly related to the fact that a substantial number of the Nation's Latinos are immigrants themselves. In fact, according to the 2000 Census, the majority of U.S. Latinos (60%) are natives of the United States. Nevertheless, Latinos across the country, immigrants or not, feel the impact of immigration policy because we live in immigrant families and communities, and many of us, like most Americans, have strong memories of our immigrant heritage. But immigration is also an issue of powerful symbolism for us. The debate on immigration policy often feels like an indicator of respect—or the lack of it—for the contributions of the larger Latino community to our common nation, even though most of us are not immigrants. We are also a community that believes in justice, and the injustice of the Nation's current immigration policy, much of which was crafted in a heavily anti-immigrant era, is offensive to America's best traditions and values. We feel connected to the experience of immigrants whose contributions to our Nation are ignored by our laws and by the larger community, and who too often experience abuse as a result. During the last several months we have sensed that America has an historic opportunity to reshape immigration policy in a way that remedies fundamental injustice, saves lives, honors the hard work of immigrants which our Nation clearly relies on, and deals sensibly with the difficult question of the future migration flow. We believe strongly that it is in the Nation's best interest to maximize this opportunity; indeed, now that the door is open to the possibility of reforms that make immigration policy consistent with economic reality and America's most cherished values, we will insist on getting the job done right.

II. THE OPPORTUNITY TO SHIFT THE DEBATE

In general, NCLR agrees with the major underlying principle of the immigration debate, which is that, as a sovereign nation, the United States can and should control its borders. However, NCLR also believes that the enforcement of immigration laws, like that of all laws, must be nondiscriminatory and consistent with American values. NCLR also believes that, for the last 15 years, one fundamental premise of immigration law has been in error. That is, the Immigration Reform and Control Act of 1986 (IRCA) was based on the premise that there was no place in the U.S. labor force for migrants from Mexico and other countries. Clearly, that premise was in error; indeed, most of the sectors that supported the law and its premise have reached the conclusion that, despite an increasingly harsh enforcement regime, immigrants have made an important place for themselves in the labor force. For this reason, leaders in both the business community and the labor movement are together arguing that the legalization of these workers is in the national interest.

NCLR believes that a combination of factors demonstrate that U.S. immigration policies have failed to achieve their objectives and are in fundamental conflict with national needs and values. In particular:

The population of undocumented immigrants living and working in the U.S. has grown steadily since the 1986 immigration reforms. Despite the imposition of penalties against employers who hire undocumented persons and heightened border

controls, a substantial and growing number of undocumented workers have found a place in the U.S. labor force. Credible estimates from the Immigration and Naturalization Service (INS) and the Urban Institute estimate that the size of this population is between six and nine million. In addition to the population that crosses the U.S.-Mexico border illegally, as many as 40% of undocumented migrants enter on valid visas and overstay them, according to INS. As long as the U.S. economy needs additional workers, immigrants will continue to come, even at great risk to their safety.

Enforcement of immigration laws at the border and the interior is conducted in a way that undermines civil rights. There is widespread evidence of the use of racial profiling in immigration enforcement and of collaborations between immigration and local law enforcement officials, which have the effect of undermining the civil rights of citizens and legal residents who are mistaken for illegal immigrants based solely on ethnic appearance. In addition, independent studies by government and private agencies have shown that the employer sanctions policy, through which employers check the documents of new hires, has caused a widespread pattern of employment discrimination against persons lawfully in the U.S. and U.S. citizens.

An alarming and unacceptable number of deaths take place each year at the U.S.-Mexico border. Since the initiation of Operation Gatekeeper, a major border control initiative in the mid-1990s, at least 1700 migrants have lost their lives crossing rivers, deserts, and mountains to find work in the U.S. Just last week, ten more migrants died crossing the U.S.-Mexico border. As you can imagine, like all Americans, Latinos are horrified by this unacceptable price for our policies. It's important that we all remember that these are not simple statistics; in a highly emotional event at our Annual Conference last year, NCLR commemorated each and every migrant who perished at the border. We read their names and ages, one at a time, to remind ourselves of our responsibility to those who lost their lives while seeking the American dream.

In addition to these compelling issues that highlight the need for policy change, there is increasing evidence that a significant legalization program is needed to maintain U.S. economic growth:

Key growth sectors of the economy increasingly rely on this labor force. Representatives of industries in the service sector, like hotels, restaurants, and nursing homes have formed an Essential Worker Immigration Coalition (EWIC) which argues in favor of more generous immigration policies, including the legalization of those already in the U.S. workforce. These employers note that widespread labor shortages are a significant constraint on economic growth.

The labor movement argues that legalization of the undocumented workforce is vitally important for protecting the overall U.S. workforce. The AFL-CIO, in a unanimous decision by its executive council in February of 2000, took the position that the best way to protect all U.S. workers is to legalize those who are in the workforce without immigration papers. Unions argue that employers can ignore labor laws and undermine organizing campaigns for those workers who lack immigration status, because workers who complain run the risk of deportation. This dramatic shift in labor movement policy underscores the scale and importance of the undocumented workforce.

These developments are consistent with the views of economic experts who confirm the overall benefits of immigration. A recent study by the North American Integration and Development Center at the University of California, Los Angeles estimates that undocumented workers from Mexico (3 million workers) contribute \$154 billion to the US GNP and \$77 billion to the GSP of California alone. In 1997, the prestigious National Academy of Sciences found that immigrants contribute about \$10 billion to the Nation's economy per year and pay more in taxes than they use in services. In addition, in Congressional testimony presented in July of 2001, Federal Reserve Board Chairman Alan Greenspan said, "I've always argued that this country has benefited immensely from the fact that we draw people from all over the world. And the average immigrant comes from a less benign environment, and indeed that's the reason they've come here. And I think they appreciate the benefits of this country more than those of us who were born here. And it shows in their entrepreneurship, their enterprise, and their willingness to do the types of work that make this economy function."

There is substantial evidence that the American public is prepared to support substantial reforms. A recent poll conducted by a bipartisan team, Lake Snell Perry & Associates and The Tarrance Group, sheds light on the public's view of these issues. They found that while voters are divided on the issue of legalization before they hear details of a proposal, once the issue is explained in terms of undocumented immigrants who can prove that they have lived, worked, and paid taxes in the United States, 59% of American voters, reflecting every demographic group, support the

proposal. Indeed, NCLR believes that it is more clear than ever to the American public that our economy depends on this labor force, and that it is not in the national interest to allow the status quo to continue.

III. PRINCIPLES FOR THE CURRENT DEBATE

NCLR believes that negotiations between the United States and Mexico, and the Congressional debate that they have inspired, provide an historic opportunity to reshape immigration policy in a way that is responsive both to labor market needs in the U.S. and the needs of immigrants themselves. In particular, these discussions could create a coherent and more effective alternative to the current immigration control regime, which is ineffective, discriminatory, and inconsistent with both our national values and economic interests. However, this process also creates substantial risks. In order to maximize positive policy opportunities and minimize dangers, NCLR believes:

1) Legalization must be a major element of any policy change. A substantial number of undocumented immigrant workers: are long-term U.S. residents, work hard, pay taxes, and otherwise abide by our laws. Their futures are inextricably linked with ours. The interests of the U.S. are best served by allowing these long-term residents to come out of the shadows. Those who can demonstrate that they've made those commitments and have linked their future to America's future should be afforded the opportunity to legalize. While this discussion is taking place in the context of negotiations between the U.S. and Mexico, it makes little sense from the U.S. perspective to provide legalization opportunities only for Mexicans; all those similarly situated should have the same opportunity.

2) *Temporary worker programs by themselves are not a viable long-term policy option.* The Nation's history with guestworker programs, which have mostly applied to agriculture, has been a highly negative one. NCLR has opposed all proposed expansions to these programs because they undercut workers rights by offering few labor protections, tie workers to individual employers, and provide no opportunities for adjustment of status. Indeed, temporary worker programs have become notorious in the Latino community because of their history—and reality—of abuse. There is a real danger that the current debate will simply follow the structure that has been in place since the days of the *bracero* program; indeed, one such proposal is being talked about in the U.S. Senate. If such a proposal were to emerge from the negotiations between the U.S. and Mexico, or in the legislative process, NCLR would have no choice but to oppose it vigorously.

3) *Any temporary worker program that might emerge from this debate must be markedly different from the status quo.* We acknowledge the reality that some undocumented workers come to the U.S. with the intention of returning to their home countries. They do not seek to be immigrants, and often end up "trapped" in the United States because our border control policies make it difficult to depart and re-enter, swelling the ranks of the undocumented. It is reasonable, then, to construct a temporary worker framework, particularly to "regularize" future worker flows. However, this must be markedly different from the existing temporary worker construct. In particular, it is essential for any workers who participate to be fully covered by U.S. labor laws, including the right to change employers, strong protections for wages and working conditions, the right to unionize, and the ability to keep their families together. Similarly, it is essential that such laws be vigorously enforced, by strengthening the Wage and Hour division at the U.S. Department of Labor as well as by ensuring that these workers have access to legal services. Finally, any temporary worker program must also include a path to adjustment of status for its workers; that is, if their labor is needed here year after year, they should be able to choose to remain in the United States as immigrants, having demonstrated that their labor is of value here.

Immigration enforcement must be conducted strategically. Even a successful temporary worker structure would not eliminate the need to conduct immigration enforcement at U.S. borders and the interior. But this enforcement must be conducted strategically, aimed at large scale smugglers and employer networks that deliberately import workers from other countries in order to skirt U.S. wage and other laws that aim to protect workers. Enforcement at the border and the interior must also be conducted according to a strict set of standards to protect the civil and human rights of those who come into contact with enforcement personnel. In addition, the ineffec-

tive and discriminatory employer sanctions regime should be replaced by a new system that emphasizes labor law enforcement and eliminates the economic incentive for unscrupulous employers to hire unauthorized workers. 5) *Economic development efforts must be targeted to create opportunity in areas where migrants originate.* If the experience of the 15 years since IRCA has taught us anything, it is that even the toughest laws, vigorously enforced, are no match for the economic forces that drive migration. As the U.S. properly revises the laws that affect what happens within its borders, it must also look closely at the so-called “push” factors that drive migration. In the long term, if we wish to alter the migrant stream that originates in Mexico and other countries, we must include economic development in those communities as part of our overall migration strategy.

6) *The situation of agricultural workers is a special case that must be considered carefully.* NCLR believes very strongly that no policy reforms affecting immigrants would be complete without taking into account the particular concerns of the farmworker community, which is overwhelmingly Latino with a significant proportion of undocumented immigrants. It is also true that the agricultural sector operates under an entirely different set of rules than the rest of the labor force, including far weaker labor protections. This, along with a history of temporary worker programs that offer insufficient protections to workers, has contributed to an abysmal situation for America’s farmworkers which has not improved for decades. Recently, representatives of the agricultural industry and the United Farmworkers of America held historic discussions and agreed in principle on a set of policy alternatives that both sides can live with. Though the results of these discussions have not yet been presented as a legislative proposal for others to respond to, NCLR believes that these organizations have moved the debate forward in a positive direction. If the negotiated agreement has not moved forward on its own as immigration legislation proceeds, it is important to ensure that its provisions are reflected in broader immigration reforms.

IV. CONCLUSION

In conclusion, Mr. Chairman, the United States stands at the threshold of an important opportunity to finally bring rationality and justice to its immigration laws after decades of failed experiments. Our current immigration law is inconsistent with our economic interests, undermines our fundamental values, and is riddled with hypocrisy. To potential immigrants our law shouts, “We don’t want you!” while our economy whispers, “Come on over, we need your labor.” Our law says hiring undocumented workers is illegal, but winks at the existence of an unauthorized workforce demographers estimate to be 6–9 million people. The law is supposed to protect American jobs; instead, it tolerates a subclass of undocumented workers with no labor rights, thus undermining wages, working conditions, and organizing opportunities of all workers. We sanctify “family values,” while spouses and children of U.S. citizens abroad must wait years to come here legally because of lengthy INS backlogs; it shocks no one that many choose to reunite with their families, even if it means entering or staying illegally. Some say we should do nothing, arguing that legalization would “undermine the rule of law.” But it’s hard to imagine any situation more likely to encourage disrespect for the law than the hypocrisy inherent in the status quo.

Mr. Chairman, the discussions between the United States and Mexico have left open the door to the possibility of reform and the enactment of an immigration law that begins to realign our immigration laws with America’s best traditions and values, as well as with the economic realities that drive migration. I urge you to move forward and make these reforms a reality.

Senator KENNEDY. Thank you very much.

Mr. Sweeney, one of the concerns that labor has had historically has been that the number of undocumented workers that have come into the United States have a depressing effect on the wages of American workers. I would like to know your thoughts on the issue. What are your feelings about that now? How concerned are you that if we have a program of normalization, of these workers, do you think that that will depress the wages of our American citizens now, whether they be as a result of citizenship or because they were born here?

Mr. SWEENEY. No, Senator. Quite the contrary, I really feel that true immigration reform, giving permanent legal status to these workers and to all immigrants—this is not just about one ethnic group; it is about all immigrants—and providing workplace protections is going to improve their lives and going to bring stability, as Tom Donohue mentioned in his remarks. I think also that this will not only stabilize but will improve the lives of these workers and will satisfy or put to rest whatever concerns there might be, because it is quite the contrary now. In many cases we are seeing workers being exploited and even being paid less than the minimum wage and the wage and hour laws not being enforced. And I think that that is one of the reasons that we are so strongly advocating true immigration reform.

Senator KENNEDY. So your position is that the exploitation is going on now and that these workers may be taking jobs away from Americans working for subsistence or less than subsistence wages and that that is depressing, while if they have their situation adjusted and their rights protected, that whole group of workers will be able to have a dollar's pay for a dollar's work.

Mr. SWEENEY. They will get the same protection and the same wages as other workers in their industries and in many cases working alongside of them. We had a rally on the steps of the Capitol, or a press conference the other day, and had a number of workers from different countries around the world who are victims of the discrimination and exploitation. We also had workers who are U.S.-born workers who are working alongside of these workers tell us stories about the wage differences and the gaps that exist in terms of benefits and so on, and there is a strong feeling among workers that with immigration reform it will be the fair and just way to address this situation.

Senator KENNEDY. Let me ask you, Mr. Donohue, the Chamber supports the legalization as a component of immigration reform. Why?

Mr. DONOHUE. I think this is a sequence. First of all, we need 8 or 9 million or 11 million workers, whatever it is now. There are going to be some more. And our support for legalization is a process. It is not an immediate waving of a wand. I don't think everybody that is here in this country ought to be legalized overnight. I think there ought to be a progression in that direction.

If we sent all 8 or 9 million workers home tomorrow, we would figure out a way to get them back the next day. They would come here somehow. And I believe that we need to have a legalization issue because many of these folks are essential to our economy. They have earned the respect and the right to be workers for the many years that they have worked here and their contribution to the economy. And I don't sit here as an expert, Mr. Chairman, and tell you how to do that, but I think we need—that is why I think a guest worker thing—we will call it something else if John wants—so that we can identify folks, puts them on a sequence that gets them approved and gets them an orderly invite and participation in our workforce. And then, by the way, we have to start thinking about what are we going to do going down the road when we are going to need incremental workers because of all the retirements and all the demand.

So I think you are really challenged in the Committee to find two solutions: one to our current situation, and as you said in some of your opening remarks, and as Senator Brownback and others did, we don't want to reinvent this problem going down the road 10 years from now or 5 years from now. So let's figure out a way to meet our worker needs.

I agree with Mr. Sweeney that this will stabilize the wage base. I agree that probably you can find examples of abuse. I hope to get rid of them, although most of the illegal immigrants are engaged with companies and organizations that treat them fairly. There are exceptions, I agree to that. So I think, Mr. Chairman, we have to find something to do now. We have to find something to do later. And legalization as a part of that process I think is in order, but not a wholesale, wave the wand, everybody is legal.

Senator KENNEDY. From the business community's view, is it desirable to have immigration policy that is only for Mexicans, or are you prepared to make this recommendation with regards to all of the undocumented?

Mr. DONOHUE. Well, first of all, all of us sitting here, by the way, are from families that in one form or another have emigrated here. And I certainly believe that it ought to be very broad-based in terms of who is working here and how they might work into the system and how others may be able to come here in years forward.

The only reason that all of us are focusing on the Mexican issue with such intensity is that a large, large number of the immigrants that are illegally or semi-illegally working here in the United States is because they walked here, you know, or they drove here and because, if you think about California and Florida and Arizona and Texas and the industries that have sprung up there, as well as other places in your own States, there has been a great opportunity to hire Hispanics.

We just announced the other day—at another time I hope we can talk, Mr. Chairman—a massive issue, working very closely with the labor unions, to encourage Government to continue to invest in all the infrastructure they collect money for. The labor union leaders, one of the first things they wanted to talk about was the immigration issue and how not only do we have to fix this up, Tom, but we need more of them. And this is a very difficult, emotional, and political issue, but the bottom line is this is not a matter of choice. This is a matter of the people we need to work in this economy and to pay jobs, and some of them John will organize.

Senator KENNEDY. Raul, I would like to ask you this question: The opponents of legalization say that legalizing undocumented persons would only be rewarding criminals. Yet we haven't really examined what that means. The presence of undocumented workers is tolerated because their labor has become so important to our economy, as we heard again today. Indeed, we have come to depend on this labor. Undocumented immigrants themselves are here for no more sinister a reason than to work hard and provide a decent life for their families. If this is criminal, how seriously should it be punished?

Could you comment on the rhetoric being used in the debate for those that are opposed to normalization?

Mr. YZAGUIRRE. Thank you, Mr. Chairman. It is a pernicious use of language to call somebody who is trying to find a job and trying to feed his family and trying to act in the best traditions of America a criminal. But if it is criminal, then we are all criminals in the sense that we are all benefiting from that criminality. We are all conspirators after the fact. You know, we are all—when we go to a restaurant and we eat a meal, we enjoy the profit of their work. When we buy a head of lettuce that is a lot cheaper because of the presence of undocumented workers, we are co-conspirators in that criminality, if you will.

So if it is criminal, then all of us, Mr. Chairman, are criminals, and I don't think that is the case.

Senator KENNEDY. Good answer.

[Laughter.]

Senator BROWNBACK. No rebuttal.

Senator KENNEDY. Senator Brownback?

Senator BROWNBACK. Thank you, Mr. Chairman.

This is an impressive panel. May I suggest to you that if we could take this on a road show, it would be very helpful across the country and across even the Capitol, here to the other side of the Capitol would be good, too.

The President has noted we had, I think, an excellent week to really bring this topic to the forefront of the thinking across America, a number of people across the American public. And your coming together here I think is a great statement as well.

We need to move this debate forward across the Nation and not just in Washington, and so I am hopeful that your groups will continue to work together in forming a broad-based, left-right coalition, however you want to designate it, to press this issue because anytime we have discussed immigration, immigration reform, immigration issues in the United States, if you look at the history of that—and I am just recently on this panel, but the history of this is pretty clear. These have been raucous debates, have been difficult issues in the country. For whatever reason, even though we are a Nation of immigrants, we all acknowledge that, but for whatever reason, this is always a difficult one for us to have. And your organizations represent key groups that could really, I think, soften the tone and tenor and bring some sanity and rationality to that debate. And I would really like to encourage you to do that, to join arms as much as you would be willing to do, because this will be—no matter how you put it, this is going to be a difficult debate on Capitol Hill.

If I look at the calls into my office, this is going to be a—this will be a difficult debate and discussion. And as Senator Specter mentioned, at the town hall meetings that he had, this is going to be a point on which you could help us out a great deal.

Mr. DONOHUE. Senator, if I just might mention, on September the 19th, the Chamber's foundation, which you may recall has recently run seminars and symposiums on the energy crisis and issues of airline problems and so on, is having a major activity, a major event on this subject, and we are hopeful that we—and we are sure we will have participation by labor and the Congress and the White House and interest groups and so on. We are just wrapping some of that up, and I think it continues the debate, and we

will take it around the country. I would love to travel with John to talk about these issues. Anywhere, you know, I will be there.

Senator BROWNBAC. Good.

Mr. SWEENEY. Senator, we have done a number of town hall meetings around the country, and maybe at the next one we will have Tom Donohue with us. But we have gotten as many as 20,000 people in Los Angeles at one town hall meeting and have had similar events in different parts of the country, and we are doing everything we can to educate people on the issue and to get their views in terms of what changes they think should take place.

Senator BROWNBAC. Good, good. Raul, I hope you will join in with the discussion and traveling road show as well.

Mr. YZAGUIRRE. I would be delighted.

Senator BROWNBAC. Very good. You can score these votes, too, John, and I can raise my labor score, my voting card. That would be helpful, too.

[Laughter.]

Mr. DONOHUE. Good luck.

Senator BROWNBAC. I am trying, I am trying.

Mr. DONOHUE. You have got time.

Senator BROWNBAC. Mr. Sweeney, you had noted that you think that we should—in your specific suggestions, the employer sanctions and the I-9 system should be replaced with a system that targets—I am just reading from your testimony—“and criminalizes business behavior that exploits workers for commercial gain...” I am interested in that point because it seems to me that a number of employers do attempt to hire people legally. They look at the documents to the degree that they can. I have seen a number of these false documents that are very good, and that this criminalization system that we currently have is really trying to penalize at the wrong point.

Do I take it from your statement here you agree with that and think that that system of employer sanctions should be dramatically changed?

Mr. SWEENEY. Yes.

Senator BROWNBAC. Do you have then specifics of where you think we should be targeting to try to get at those areas that do exploit workers for commercial gain?

Mr. SWEENEY. We would be glad to meet with your staff and share our experiences and what recommendations we might have or considerations for you.

Senator BROWNBAC. Good, because I think that is an important area to deal with. Right now I don't think the system is working at all in that regard.

I don't know, Mr. Donohue, if you have anything from your experience.

Mr. DONOHUE. I don't think the system is working. The place where John Sweeney is absolutely correct is that if you took and had people that were no longer illegal but they were on some formal status and that, if we agree, they would all have the same protection of the law, then a lot of the existing law outside the immigration area, a lot of the existing law would immediately affect these workers because if they were not being appropriately treated, they would not be afraid to bring that to the attention of the au-

thorities. Now, if you are undocumented, if you are illegal, as John says, you are not going to do that.

I am not sure how much additional law we have to add. I think we have to put people under the existing protections, and I absolutely agree with John that the current system is counter-productive.

Senator BROWNBACK. Mr. Yzaguirre, what are your comments on this?

Mr. YZAGUIRRE. Well, Mr. Chairman, we opposed employer sanctions in 1986. We predicted that they would be ineffective and that they would cause widespread discrimination among Latinos. We insisted on a provision in the Act that would mandate GAO to do a study. That study showed massive, even larger levels of discrimination than even we had anticipated.

At that time we proposed what we call a pattern and practice approach, that is, look at who—because there is a high correlation between those people who hire undocumented workers for exploitation and the fact that they are abusing existing wage and hour and working condition laws. So a pattern and practice approach focusing on the Department of Labor Wage and Hour Division is, I think, a much more effective and much more appropriate way to deal with that problem.

Senator BROWNBACK. That is a very good suggestion. I look forward to working with each of you on that issue. I just might say broadly I look forward to working with each of your organizations as we craft this proposal to move on forward, both as we craft a specific bill and efforts to move this forward on what the President outlined, on what I think has broadly been discussed here today, and then also as we attempt to move it through the Senate and through the House, which this is going to take a lot of effort on a lot of people's part. So I am hopeful we can do that as a team and be at the end of the day quite successful with something that should stand the test of time instead of more recent changes that we have made that have been more reactionary and in my estimation have not worked well in the interest of this country or in the interest of the people that desire to come to this country.

Thank you very much.

Senator SPECTER. Mr. Yzaguirre, I think you made a very spirited and excellent response to the question about legalizing undocumented persons would be only "rewarding criminals." I don't think in the question there was any suggestion that the questioner thought we would be rewarding criminals. And I think it really inappropriate to talk about immigrants who come to this country illegally as being criminals. They really aren't. But I must say, having done some work in the field, people who buy the heads of lettuce and eat in the restaurants would not be co-conspirators or accessories after the fact. I think we ought to eliminate all of that kind of concern and really try to figure out how to treat all the people fairly and respond to a very, very serious problem.

Mr. Sweeney, I believe I understood you correctly to say that—you used the word "guarantee" that there are no U.S. workers available for these jobs, and that is what I hear in my travels around my State. How do you do that? How do you have that kind

of a guarantee that there are no U.S. workers who are available for these jobs?

Mr. SWEENEY. Well, I think we have to do a lot better job at labor market tests and especially with the guest worker program. But I think that we can really have better reports and a better handle on what the situation is in different industries and different job classifications.

Senator SPECTER. And when you talk about giving these workers protection, certainly they are exploited. There are very frequent reports of families being exploited, in unlivable conditions, in shanties, and transported in trucks and all sorts of difficulties. But when you have a group of people who are concerned about being apprehended or about being returned to Mexico, you don't have people who are in a position to make any complaint. So it is very hard to give them protection when they are not in a position to come up and defend themselves and identify the mistreatment or perhaps illegal treatment they are being subjected to.

How do you work on that one?

Mr. SWEENEY. Well, we start off with permanent legalization status for these workers, giving them the same kind of rights as workers who have been born in the United States, and giving them the entitlement to all of the protection laws, as well as the benefit laws, the social network that is available to workers and, we add, also gives them the right to organize if that is their desire.

Senator SPECTER. Mr. Donohue, your point about the necessity for workers is obviously correct. Mr. Sweeney, you wouldn't disagree that there is a worker shortage, at least in some places, would you?

Mr. SWEENEY. No, no, I don't disagree with that.

Senator SPECTER. The question then arises as to whether we ought to have a different immigration policy as to other places. We had a terrible time getting H-1B expansion. I recall working on this Subcommittee a decade ago, taking the Chamber of Commerce's position to try to expand that line. And even when you are dealing with Ph.D.s and M.D.s, you have, on lines which are not available in the United States, grave, grave difficulties.

I might recount a story which is pretty close to the point. I had a chance to—Senator Shelby and I met with Saddam Hussein in 1990 before the Gulf War, and Saddam Hussein was complaining to us about U.S. immigration policy. Interesting that he would have a concern about it. And his point was that all the Russian Jewish immigrants were being sent to Israel and why weren't they coming to the United States. And I knew that he knew that I was Jewish, but I wanted him to know that I knew that he knew that I knew.

[Laughter.]

Senator SPECTER. And I told him that is a very sore subject with me because my father was a Russian immigrant who came to the United States. But only 50,000 Russians are permitted to enter the United States a year, and it is not that all of the rest of them—we are not trying to send everybody to Israel, but there are limitations.

And I have raised the question on our policy again and again, beyond the H-1B, where I think it is a pretty clear proposition, but how about broadening immigration from other places to meet the

kind of needs that we are concerned about? How about it, Mr. Donohue?

Mr. DONOHUE. Senator, there was a study done by the Employment Policy Foundation, and while I think it is supported by business, there is something in here that is not an arguable issue on policy. It is a set of numbers. And it points out, as somebody reported in the testimony, we have about 140 million people working in the United States today, and based on our calculations of need, we will need about 200 million by 2030, and based on who has been born, we will end up with—and this includes illegal immigrants in here. We will end up with about 165 million.

So, clearly, on an ongoing basis, we are going to have a gap of about 35 million people. And today we are talking about illegal immigrants that bump up against—let's say we would maybe agree on 10 million. So we are going to have—and those illegal immigrants are already counted in the numbers. So we are going to have adequate opportunity to expand immigration all about the world.

Now, let me make it clear. On the H-1B visas, which you have been an extraordinary supporter of, those are a very small number of very, very high-skilled people. And we bring them for two reasons: one, we need them and, two, it is just as easy to send the work where they are. You know, you can put a lot of technical stuff on a satellite and send it to India every night. We wanted to keep a lot of that business and a lot of that skill here in the United States.

But what John and I are primarily talking about here is the bottom part of the triangle, the core of the people that run the American economy, not the guy that is a Ph.D. that ends up at Cal Tech or ends up at, you know, Intel trying to figure out—we are talking about the people that do everything to make that possible. And I think you are right on the core here, and that is, what do we do going forward so that we are not sitting back here and our children are there and here saying, you know, we have got 35 million illegal immigrants here, because the bottom line is we are going to get the people we need. And this country, with all of its faults, is still the place where people walk, swim, fly, do whatever they can to get here for great opportunity.

So I think you are on to the issue, and that is, what do we do about the core workers we need to move this society forward? What do we do about the unemployment? A lot of that is geographic. You have people in your State who don't plan to move to New Mexico or Arizona or Florida. These are serious challenges. But I think you are asking the right questions, and we look forward to working with you because this is one issue—it is not a policy question of we are going to have this tax or that tax or this regulation or that regulation. It is all about whether there is going to be anybody to work here or not.

Senator SPECTER. Mr. Sweeney, if we were to open up the portals for more immigrants, look at the some of the projections, how are your constituents and my constituents going to respond to that?

Mr. SWEENEY. Well, Senator, I think that people understand the abuses of our present immigration system, and I think that legalization, changing and providing for legalization status is going to

be a major step in the right direction. I believe that these workers having the same protection and being treated the same as workers born in the United States is going to relieve a lot of the pressures and a lot of the problems.

And I go back, just to follow up on your original question and Tom's statement, that we really have to have a process with the expertise that is required to determine what the labor market situation is in these industries and jobs and so on. We are kidding ourselves if we are providing for workers of certain skills to come to this country and then placing them in entry-level jobs, which is the current situation in many cases, especially in the high-tech industry.

Senator SPECTER. Thank you very much.

I want to express my regrets to Mr. Norquist and Mr. Deffenbaugh and Mr. Moore of the last panel. This has been a long hearing. We are at about 2 hours and 15 minutes, and I cannot stay. But I will be checking the transcript.

Thank you.

Senator BROWNBACK. [Presiding.] Thank you very much. This is an excellent panel, and we look forward to working with each of you on a very important and very difficult subject.

Mr. DONOHUE. Thank you.

Mr. SWEENEY. Thank you.

Mr. YZAGUIRRE. Thank you, Senator.

Senator BROWNBACK. I would like to now welcome our third and final panel which consists of Grover Norquist, executive director of Americans for Tax Reform; Ralston Deffenbaugh, Jr., president of the Lutheran Immigration and Refugee Service; and Stephen Moore, a senior fellow at the Cato Institute. I think their testimonies reflect the views of all types of organizations that have a longstanding interest in our country's immigration policies, and we will look forward to their testimony.

Senator KENNEDY. I, too, want to join in the welcome. I was necessarily out for a moment, but I am very glad to have all of you here, an impressive morning, and continuing with the panel that we are about to hear from. I know of few public policy issues where we have been able to develop the range and kind of support where there was such diversity in such a short period of time. So it is very important that we pull this information together for the benefit of our Committee, the Senate, and for the American people. So we are grateful to all of you.

Senator BROWNBACK. Mr. Norquist, would you like to go ahead with your presentation?

STATEMENT OF GROVER NORQUIST, PRESIDENT, AMERICANS FOR TAX REFORM, WASHINGTON, D.C.

Mr. NORQUIST. Yes, certainly. I have submitted some written testimony. I would like to start off by pointing out that immigration is good for the country, it has been good for the country, it will continue to be good for the country. It is a truism that the country was built by and for and with immigrants, but some truisms become truisms because they are true. And I think it is important to keep reminding ourselves of this. It is not just folklore or myth or something we like to think. It is actually accurate.

The United States is different from other countries. We are not a people—we are not all the same ethnic group. We didn't all speak the same language when we started. We don't all have the same religion. What we have in common is a dedication to individual liberty and to the Constitution, and I submitted as part of my testimony the oath you take to become an American. It doesn't ask you where you came from, what your religion is, what color you are. It asks you: Are you willing to support the Constitution? And then we want you to be a citizen.

Second, immigration is not only good for the country, it is a sign of health of the country. When you look around the world, successful countries have people wanting to get into them. Unsuccessful countries have people leaving them. And I think that it is very important for us to keep an eye on this. Back in the 1950s and 1960s, a lot of very stupid people with Ph.D.s wrote a lot of silly things about the decline of the West and the Soviet Union used its economic faculties better than we did and socialism was going to beat us. And then in the 1980s, a lot of very silly people with Ph.D.s wrote about how Japan was going to outpace us because we didn't need labor markets and we didn't need capital markets, we needed 12 smart guys at MITI determining how to run things.

Well, you know, Galbraith was wrong about the Soviet Union, and the people who wrote about the decline were wrong about Japan. But you didn't need a Ph.D. If you had stood at the border, if you had stood at an airport and figured out which direction people were going, you would have understood which countries were forward-looking and winning and which countries were losing and failing.

I am glad we have more immigrants. I am even glad we have debates over immigrants. This last weekend, I was talking to the lovely and talented Ann Coulter, who said she is not offended in New York by construction workers who whistle at her. She worries if someday they stop whistling at her. I worry about her country if we stop having a debate about immigration. It would mean we are not having immigration, and that ought to tell us that there was something very, very wrong.

A couple of quick points. Should we go with Mexico first? And some people say, well, it is not fair to regularize Mexican immigration before other states. When we brought Canada into NAFTA, it wasn't an insult to Mexico. We just did Canada first. When we brought Mexico into our free trade agreement, it wasn't an insult to Chile. It wasn't some statement that we didn't like Brazil. We did it bilaterally. We did it step by step. I hope that we will have a free trade agreement with the entire hemisphere—heck, eventually with the world, and we can do the same thing in regularizing immigration, do Mexico first and go on state by state. There is nothing wrong with taking one step first and then others.

Next thought. Some people say, well, this rewards illegal behavior if you regularize the people who crossed the border. A couple thoughts on that. One of them might be, if you have people who are here, who have been working, is to say to them, look, we are going to regularize you, we are going to give you a piece of paper so that you don't worry about a knock in the middle of the night from the INS, so your employer doesn't worry that, you know, the

Government is going to burst into his or her business and start arresting people and, you know, do some watered-down version of Operation Keelhaul out of the United States and across the border, but that one can get your paper and go get in line for full citizenship and so on, as if you had just shown up in Mexico City and applied for citizenship, so you weren't jumping the queue but you spent your time waiting in line here, not deported from the United States or in fear of that.

Third thought. Some people in the past have said, well, we are hostile to the idea of immigration because they will all go on welfare and it will be a drain on taxpayers. Actually, I had a debate with the former head of the National Review who gave a speech that we shouldn't have immigration, they will all go on welfare. He gave a big speech. And I said you have just given a great speech against the welfare state but not against immigration. He said, yes, but we can't reform welfare, so we are just going to have to shut off the immigration.

Well, in point of fact, you did reform a great deal of welfare, and I think we have greatly reduced the fear on some taxpayers' part that more immigrants means more people on welfare. Certainly there is more to be done on welfare reform, but I think that took an argument off the table.

Two other quick thoughts. One is, when we have more folks coming here from Mexico and the rest of the world, I think we need to treat them the way we treated citizens that came here before. I am very concerned about the re-emergence of snob zoning laws. I am originally from Massachusetts, and we had what were called snob zoning laws when people in the suburbs of Massachusetts didn't want the ethnics moving out into their neighborhoods. Recently, snob zoning laws have been painted green, and they are now called anti-sprawl laws, but it is the same reasoning, it is the same thing. It is now we just don't want all these Hispanics moving to our neighborhood because they will scare the trees. And I think we ought not to say to people, Glad to have you in the country, but we have got these little bantu stands called cities that you are allowed to live in, we wouldn't want you in rural or suburban America.

Second, I think it is also important that we give these people real protection, the protection all Americans have, so that nobody has to pay off anyone or go through any hoops on this side to get a job. I have talked to Hispanics who are worried that labor union guys come to them and say, You want protection, you got to pay union dues. No one should feel they have to pay union dues to keep their job or stay in the country. We need to put an end to that, and protection against that kind of exploitation of both immigrant labor as well as domestic labor.

And, lastly, while we are on it, I think it is important that we move forward on President Bush's commitment and the commitment of many of you in the Senate to get rid of the secret evidence laws which have been used to discriminate against Muslims and Arabs in this country. And I would support the efforts that were started with Senator Abraham and others in this body to get rid of those laws.

Thank you.

[The prepared statement of Mr. Norquist follows:]

STATEMENT OF GROVER NORQUIST, PRESIDENT, AMERICANS FOR TAX REFORM,
WASHINGTON, D.C.

I thank you for your kind invitation to speak about an issue that should remind us all of what our country represents. Reexamining our approach to Mexican immigration is, of course, timely, but it is also an important opportunity for us to contemplate what makes the United States so special, and how pivotal our relationship with Mexico is for the long-term economic vitality of the entire Western Hemisphere.

A NATION OF IMMIGRANTS

Almost all Americans can trace their roots to another country, or several countries. Most modern nations have sizable shares of residents who are either recent immigrants or descendants of immigrants. But the United States has historically been, and in my opinion should continue to be, the favored destination of those around the world who seek a better life for themselves and their families. Immigrants benefit from the chance to work hard and succeed, and the United States benefits from their contribution to our economy and society. Our increasingly multi-ethnic Nation has grown stronger as it has become more diverse, with all its people bound together by a shared belief in the Constitution and the freedom it guarantees.

The United States is a marvelous place indeed, and it's only getting better.

So one could hardly blame Mexicans for looking towards the north for opportunity. Although Mexico is quickly becoming a flourishing Nation (thanks in no small part to NAFTA), it is understandable why many are so willing to risk entering this country illegally: the grass is greener on our side of the border at the moment.

But it is also imperative that we should allow them to come to the United States legally, and return to Mexico as frequently as necessary: doing so would have the ultimate effect of reducing the constant pressure now exerted on the other side of our southern border. This pressure is expensive to combat, and counterproductive to the existing positive relationship between the United States and Mexico. It would make far more sense for this pressure to simply be relieved.

Many Mexicans want to work in the United States temporarily, with the ability to regularly return to Mexico on occasion. But getting into the United States illegally keeps them here indefinitely, because under current law the hazards of frequently exiting and reentering are too great.

Our best course of action would be to maintain the strength and integrity of our border, but allow it to become more flexible. This can be achieved through expanding temporary worker programs, increasing cross-border mobility, and extending permanent legal residency—but not necessarily citizenship—to those who qualify.

We would all be well served to remember that our neighbors in Mexico would be coming here to work, not to go on welfare. And although many of them would have no desire to become American citizens, it would be a credit to the American Way to offer them the option. Doubtlessly, we welcome them to join us in our shared pursuit of happiness.

I am pleased to see that interest groups across the political spectrum (even the AFL-CIO) are becoming less hostile to immigration. As a nation, we are more welcoming than ever before, but we still have much progress to make. Giving Mexican workers a chance to live the American Dream, or simply earn a fleeting glimpse of it if they so choose, would be an enormous advance in and of itself, and is the right thing to do.

PEOPLE ARE THE ULTIMATE NATURAL RESOURCE

The United States is a vast place, and compared to a great many other countries, especially those in Europe, it has a very low overall population density. There is ample space to accommodate newcomers, and there is now, as ever, a pressing need to allow immigrants to help us realize our Nation's maximum potential. With many jobs begging to be filled, and many Mexicans willing to do them, it's in our national interest to establish a coherent framework whereby the needs of employers and their prospective employees can be satisfied, despite differences of nationality.

Make no mistake: immigrants do not take jobs from citizens, they create jobs for all of us by doing the hard work that increases our Nation's productive capacities, which in turn fuels economic growth. A rising tide lifts all boats, including a multi-national tide.

I would be remiss were I not to address here the false issue of "urban sprawl". Now called "anti-sprawl legislation", it used to be called "snob zoning". Its goal was

the same then as it is now: to keep “them” out of “our” neighborhood. Overcoming this odd obsession that afflicts far too many policymakers is as important as legalizing the honest work of immigrants. After all, they need places to live, and as I already noted, there is plenty of physical space in this expansive country for them. Anti-sprawl laws and regulations not only cause unjustifiable hassles for citizens seeking to find suitable housing, they act as barriers to immigration by reducing the potential housing stock.

WE SHOULD TREAT IMMIGRANTS WITH THE SAME DIGNITY AS WE TREAT CITIZENS

Our policies concerning immigration should be consistent with our Nation’s commitment to civil liberties. The United States was founded on a belief that all people have certain inalienable rights that no government has the authority to confer or the power to rescind. Aggressively rounding up “suspicious” immigrants and summarily sending them back without giving them a fair chance to demonstrate how they can make a valuable contribution to their host’s commonwealth is evocative of totalitarianism. Granting them legal residency, even temporarily, is not just humane, it’s American.

During the latter stages and aftermath of World War II, through an plan widely known as “Operation Keelhaul”, the United States allowed thousands upon thousands of brave people who succeeded in reaching Western Europe after fleeing Stalin’s emerging Soviet Bloc to be forcibly repatriated at the Communists’ insistence. While I am most certainly not comparing the Mexico of today to the Russia of old, the principle still applies: it’s wrong to close the door to opportunity on those who have risked all to pass through it and send them back from whence they came.

Are we to take an Operation Keelhaul approach to these Mexican immigrants? Or any other category of immigrants for that matter? Could our consciences permit us?

HEMISPHERIC FREE TRADE: GETTING FROM HERE TO THERE

Our Nation is about to embrace a path to prosperity that will reach from the Canadian Yukon to Cape Horn. By enacting a free trade zone throughout the Western Hemisphere, we will dramatically improve the lives of all who live within it. Taking a more sensible approach to freeing the movement of labor is a crucial component of making hemispheric free trade possible.

Admittedly, labor mobility is not the sine qua non of hemispheric free trade: that honor belongs exclusively to Trade Promotion Authority. Empowering President Bush (and every president after him, for that matter) with Trade Promotion Authority will ultimately make labor mobility throughout the hemisphere less of a concern by eliminating the punitive taxes on imports that kill job creation in developing nations and close access to markets to our south.

Nevertheless, without a few changes to our labor laws sooner rather than later, Americans won’t enjoy the widespread benefits of hemispheric free trade as quickly as we would have otherwise. And there’s nothing more expensive than the wasted time that causes opportunities to be lost.

Although granting special status to Mexican immigrants may be touted by some to be a slight against immigrants from Central and South America, it’s best to view this as a necessary first step towards those with whom we share an immediate physical border, much like our bilateral free trade pact with Canada was a necessary precursor for NAFTA. If we don’t make the modest effort needed to lay a foundation now, future measures aimed at establishing a hemispheric free trade zone will be all the more difficult.

And we will all suffer as a consequence, Americans and Mexicans alike.

EXHIBIT A: THE OATH OF CITIZENSHIP

“I hereby declare, on oath, that I absolutely and entirely renounce and abjure all allegiance and fidelity to any foreign prince, potentate, state, or sovereignty of whom or which I have heretofore been a subject or citizen; that I will support and defend the Constitution and laws of the United States of America against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I will bear arms on behalf of the United States when required by law; that I will perform noncombatant service in the Armed Forces of the United States when required by the law; that I will perform work of national importance under civilian direction when required by the law; and that I take this obligation freely without any mental reservation or purpose of evasion; so help me God.”

EXHIBIT B: "THE NEW COLOSSUS" BY EMMA LAZARUS

Not like the brazen giant of Greek fame,
 with conquering limbs astride from land to land;
 Here at our sea-washed, sunset gates shall stand
 A mighty woman with a torch, whose flame
 Is the imprisoned lightning, and her name
 Mother of Exiles. From her beacon-hand
 Glows world-wide welcome; here mild eyes command.
 The air-bridged harbor that twin cities frame.
 "Keep, ancient lands, your storied pomp!" cries she
 With silent lips. "Give me your tired, your poor,
 Your huddled masses yearning to breathe free,
 The wretched refuse of your teeming shore.
 Send these, the homeless, tempest-tossed to me.
 I lift my lamp beside the golden door."

EXHIBIT C: YAKOV SMIRNOFF, RUSSIAN-BORN COMEDIAN:

"My first thought after I had sworn for American citizenship was 'I hate these foreigners who come here and take our jobs!'"

Senator KENNEDY. [Presiding.] Thank you very much.
 Mr. Deffenbaugh?

**STATEMENT OF RALSTON H. DEFFENBAUGH, JR., PRESIDENT,
 LUTHERAN IMMIGRATION AND REFUGEE SERVICE, BALTI-
 MORE, MARYLAND**

Mr. DEFFENBAUGH. Thank you very much, Senator Kennedy, Senator Brownback, and all the members of the Committee. I want to thank you for holding this hearing and for the opportunity to testify. Particularly, I want to give a word of thanks for the adoption of 245(i) last evening. That will help a lot of families and remove the separation and hardships which many have faced because of the lapse in 245(i).

In the Gospel of Matthew, in the 25th chapter, it says that the nations will be judged by how we treat the least of these, and this is indeed an historic opportunity for us as we talk about migration between the U.S. and Mexico. And I hope that as this body and as our Nation makes the decisions about how we will deal with migration between our countries and, in fact, general migration in the United States, that we will keep in mind that touchstone of how does it affect the least of these and that we will focus on the human rights and the human dignity of the migrants themselves.

It is clear that our current immigration policy with regard to economic migration is unacceptable and has to change. The results of this policy today have included hundreds of deaths annually along the U.S.-Mexican border and elsewhere, abuse of the undocumented here in the United States, the separation of families, and an inadequate match between the labor needs of our \$10 trillion economy and the poor and excluded who seek an opportunity in it.

As an alternative, we propose the substantial legalization of economic migration. Honest people who want to work shouldn't be made to violate the law. And, specifically, we call for an independent worker visa that would not tie a worker to any particular employer or economic sector, but would provide for equal protection under the law and allow those with substantial equities in this country to adjust their status here to that of permanent residency.

We have an opportunity now—and it is just amazing to see the change in the political climate, of course, with the friendship between President Bush and President Fox and the changes in the Mexican political scene. But we have an opportunity to shape a policy which would more appropriately reflect the relationship of two friendly nations whose people and economies are increasingly interdependent and not treat our immigration as though we need to put up more and more walls and barriers to those who would come in friendship to our country.

We also have an opportunity to remove a grave injustice in our own country which causes great hardship to so many: the existence of a permanent sub-group of people who live without recourse to effective legal protection in our country. And this opens the door to their massive abuse and exploitation and harms the common good in our country. We can't continue to have a large under-class of people who do not have legal status in our country.

So I thank you for the opportunity to speak for the human rights and human dignity of migrants and their families.

[The prepared statement of Mr. Deffenbaugh follows:]

STATEMENT OF RALSTON H. DEFFENBAUGH, JR., PRESIDENT, LUTHERAN IMMIGRATION AND REFUGEE SERVICE, BALTIMORE, MARYLAND

INTRODUCTION AND SUMMARY

Lutheran Immigration and Refugee Service (LIRS) was founded in 1939 to help resettle refugees fleeing Nazi Germany. Since then, LIRS has resettled more than 280,000 refugees from all over the world. It provides service and advocacy through its 41 Lutheran affiliate offices and sub offices, its Washington, D.C. office and its headquarters in Baltimore, Maryland. LIRS advocates for just, compassionate policies for all newcomers to the United States and administers a fund from Lutheran and Presbyterian churches that provides grants to independent grass roots service programs to serve particularly vulnerable newcomers. There is a strong tradition of Lutheran pastoral care and ministry for migrant farm workers, both legal and undocumented. LIRS has opposed employer sanctions since their inception and has spoken out against workplace raids to the present day.

Our Nation's immigration policy with regard to economic migration is unacceptable and must change. The results of this policy include hundreds of deaths annually along the U.S.-Mexican border and elsewhere, abuse of the undocumented here in the U.S. and an inadequate match between the labor needs of our \$10 trillion economy and the poor and excluded who seek opportunity in it. As an alternative, we propose the substantial legalization of economic migration. Specifically, we call for "independent worker visas" that do not tie workers to any particular employer or economic sector, provide for equal protection under the law and allow those with substantial equities in this country to adjust their status to that of permanent residence.

THE DEADLY BORDER IS AT THE CENTER OF A HISTORY OF POLICY FAILURE

INS border enforcement strategy has, in effect, diverted migration flows to the most inhospitable desert and mountain regions causing dramatic increases in deaths due to exposure to the elements.¹ According to the GAO, "although INS has realized its goal of shifting illegal alien traffic away from urban areas, [the primary discernable effect of the strategy,] this has been achieved at a cost to both illegal aliens and INS."² The number of bodies found by the INS on the U.S. side of the border soared to 367 last year and that almost certainly undercounts the total number of deaths. As of August 21 the death toll in California's Imperial Valley topped last year's figure in that region with six weeks left to go, despite a decline in appre-

¹Karl Eschbach, Jaqueline Hagan and Nestor Rodriguez, "Causes and Trends in Migrant Deaths along the U.S.-Mexico Border," University of Houston, Center for Immigration Research, March 2001.

²General Accounting Office, "INS' Southwest Border Strategy: Resource and Impact Issues Remain After Seven Years," August 2000, pp. 2-3.

hensions.³ Enforcement strategy has also resulted in an increase in the use of smugglers (and in their fees) and in the incidence of violence in the border areas. It has spawned rancor between property owners and migrants, including vigilante-style intimidation. Those who survive the crossing end up living underground, without legal status, sometimes in debt-peonage to criminal smuggling syndicates. They are also prey to unscrupulous employers who would use threats of deportation in order to squelch their rights.

Mexican migration to and from the United States has been an essentially cyclical phenomenon for more than 150 years. Modern efforts to suppress this pattern originate from the termination of the 1942–64 Bracero program.⁴ At the time, opponents assumed that ending the program would tighten the U.S. agricultural labor market, resulting in increased wages and improved working conditions. Farmers, on the other hand, believed that ending the program would result in crop loss, business failure and higher prices. Both sides were wrong. The actual result was the steady rise in undocumented economic migration.⁵ Between, 1965 and 1990, besides the 1.9 million Mexicans admitted as legal permanent residents, there were an estimated 36 million unauthorized entries from Mexico to the United States and 31 million returns the other way.⁶

In 1986, the Immigration Reform and Control Act (IRCA) attempted to ‘freeze’ the cyclical migration pattern, attempting to apply a static solution to a dynamic phenomenon. Amnesty was granted to those already here and employer sanctions were imposed to deter those who might seek to come in the future. Employer sanctions hurt migrants in that they cause increased use of subcontractors to absorb risk of liability and simple discrimination against those who merely appear foreign. In effect, our immigration policies extract a “risk premium” from migrants’ wages that has been estimated to amount to an estimated 28% cut.⁷

Many present day economic migrants also seek U.S. employment only on a temporary basis and would prefer to return to their families in their own countries periodically but they dare not do so due to the high risks associated with repeated entry. In other words, our very immigration policy, in attempting to thwart the circular pattern, perversely compels undocumented migrants to remain in the United States, apart from their families and unemployed in off seasons. Tragically, increasing numbers of women and children are dying at the border as migrants respond by attempting to bring their entire families over in order to avoid indefinite separation.

And yet, for all the lethality and hardship caused by our present enforcement strategy, it has shown little effect in reducing illegal immigration⁸ and less in shoring up wages of unskilled Americans.⁹ In the U.S. economy, the low-skilled immigration is absorbed by changes in the production output mix through shifts to less skill-intensive sectors and technological change in other sectors based on skill increases among natives, moving them out of the low-skill labor market.¹⁰ The downward pressure on low-skill wages that does exist is virtually exclusive to American high school dropouts and influenced by technological innovation more than immigra-

³ Ben Fox, “Deaths near border rise at record pace. Imperial Valley; Six more weeks of expected heat could increase the toll, authorities say,” *The Press Enterprise* (Riverside, Ca.), August 21, 2001.

⁴ Pia M. Orrenius, “Illegal Immigration and Enforcement Along the U.S.-Mexico Border: An Overview,” *Economic and Financial Review*, First Quarter 2001, Federal Reserve Bank of Dallas, p. 4; Gordon H. Hanson, Kenneth F. Scheve, Matthew J. Slaughter and Antonio Spilimbergo, “Immigration and the U.S. Economy: Labor Market Impacts, Illegal Entry, and Policy Choices,” June 2001, pp. 10–11, 34.

⁵ Demetrios G. Papademetriou and Monica L. Heppel, “Balancing Acts: Toward a Fair Bargain on Seasonal Agricultural Workers,” *Carnegie Endowment for International Peace*, 1999, fn. 18, p. 18 and fn. 16, p. 17.

⁶ Douglas S. Massey and A. Singer, “New Estimates of Undocumented Mexican Migration and the Probability of Apprehension,” *Demography*, 1995, Vol. 32, pp. 203–213.

⁷ Douglas S. Massey, “March of Folly: U.S. Immigration Policy After NAFTA,” *The American Prospect*, no. 37, March-April, 1998. Massey also found that, prior to the advent of employer sanctions under the 1986 IRCA law, the key determinants of migrant wage levels were education, experience in the U.S. and English proficiency. After IRCA, the key determinants were social contacts.

⁸ Gordon H. Hanson and Antonio Spilimbergo, “Does Border Enforcement Protect U.S. Workers from Illegal Immigration?,” NBER Working Paper No. W7054, March 1999.

⁹ Gordon H. Hanson, Kenneth F. Scheve, Matthew J. Slaughter and Antonio Spilimbergo, “Immigration and the U. S. Economy: Labor Market Impacts, Illegal Entry, and Policy Choices,” June 2001, pp. 10–11.

¹⁰ Gordon H. Hanson, Kenneth F. Scheve, Matthew J. Slaughter and Antonio Spilimbergo, “Immigration and the U.S. Economy: Labor Market Impacts, Illegal Entry, and Policy Choices,” June 2001, pp. 14, 17–18, 21. In more rigid markets such as Europe, by contrast, such influxes are absorbed more by increases in unemployment. *Id.* at 15.

tion.¹¹ While this is cause for concern, such concern would be more effectively directed toward substantial education reform and target other headwinds facing the least among us. Scapegoating immigrants, on the other hand, neither teaches functional illiterates to read, nor frees addicts from substance abuse, nor reforms criminal sentencing anomalies, nor addresses any significant obstacle to the upward mobility American underclass.¹²

INDEPENDENT WORKER VISAS

While we favor the option of permanent residence for those who have established substantial equities in this country, we recognize that temporary visas can alleviate much of the hardship occasioned by present policies. Many economic migrants have no need or desire to immigrate to this country and only seek work here on an occasional or seasonal basis.¹³ This is an interest that can and should be accommodated.

The key shortcoming in typical guest worker programs such as the Bracero and H-2A programs is that they are *employer-centered*. The employer is the sponsor/petitioner and the worker is more or less bound to that employer. This is an anti-competitive restriction of workers' bargaining power and inhibits their assertion of legal rights with fear of immigration consequences. This also amounts to an inappropriate privatization of our immigration policy. Making the legality of a person's status in this country dependent upon her relationship with a particular employer virtually invites abuse.

Economic migrants, documented and undocumented, are presently working in virtually every sector of our economy, from manufacturing to services, from construction to domestic work. Industry-wide rather than employer-specific restrictions, such as a requirement to work in agriculture, would not only still constrain workers' bargaining power but would also be an unrealistic response to the defects of current policy. Only 10% of Mexicans and Mexican-Americans in the United States work in agriculture, while 85% work in the service sector and many are now entering the commercial sector.¹⁴ A policy that ignores economic reality is bound to fail and perpetuate the same ills of the status quo. Sectoral restrictions would also hinder economic development in Mexico as they would limit the value of the human capital infusions that take place when migrants return.

Independent Worker Visas, on the other hand, would be migrant-centered visas for which the workers themselves apply, with no restrictions as to which employer or in which industry the bearer can work. Labor standards should apply equally to all workers with no discrimination on the basis of nationality or immigration status. Furthermore, those who develop substantial equities in this country should be allowed to adjust their status to that of permanent residence. These principles of mobility across employers and sectors and equal treatment under the law have been articulated by dozens of humanitarian and faith-based organizations¹⁵ and we are gratified to see them endorsed by the Democratic leadership of the U.S. Congress as well.¹⁶ A recent study from UCLA has also recommended a renewable "New Worker Visa" initially for citizens of Mexico, Canada, the Caribbean and Central America, based on historical levels of undocumented entry that would ensure full portability across jobs, allow multiple re-entry to restore circularity, provide a path to earned residency after five years and include participation in payroll tax-funded benefits, though not means-tested public assistance.¹⁷

Also, we recognize no fundamental moral distinction between Mexicans dying on our southern border, Haitians drowning in the Windward Passage and Chinese suffocating in cargo containers. While there may be sound political reasons for beginning the reform of our economic migration policies in a bilateral arrangement with

¹¹ *Id.* at p. 23.

¹² Although LIRS does not develop positions on policies addressing such domestic issues, Lutheran church bodies associated with it do. See e.g., the Evangelical Lutheran Church in America, <http://www.elca.org/des/advocacy.hbul> and the Lutheran Church—Missouri Synod, <http://humancare.lcms.org>

¹³ Belinda Reyes, "Dynamics of Immigration: Return Migration to Western Mexico," Public Policy Institute of California, 1997.

¹⁴ Council on Hemispheric Affairs, "Startling Statistics about Mexican Immigration," August 16, 2001.

¹⁵ "Religious Leaders Call for Change in Policies that Result in Border Deaths," a June 4, 2001, <http://www.firs.org/DonateServe/advocate/EconMigReligLdrs.pdf>; "End the War on Economic Migrants!" February 14, 2001, <http://www.lirs.org/DonateServe/advocate.htm>.

¹⁶ Sen. Thomas A. Daschle and Rep. Richard A. Gephardt, Letter to Presidents George W. Bush and Vicente Fox, August 2, 2001, p. 3.

¹⁷ Dr. Raul Hinojosa Ojeda et al., "Comprehensive Migration Policy Reform in North America: The Key to Sustainable and Equitable Economic Integration," North American Integration and Development Center, August 29, 2001, pp. 28, 32.

Mexico, we share the view of the Administration and the Democratic Congressional Leadership that we should do so with a view to expanding it to equally deserving people of other nationalities.¹⁸

MIGRATION AND DEVELOPMENT

Migration to the United States has been one of the most effective anti-poverty programs in the history of the world. This is not without repercussions in the countries from which immigrants come. Unlike refugees, economic migrants frequently return to their countries of origin and bring much needed capital—both human and financial—and, while they are here, provide an important source of income diversification and economic risk insurance for their families abroad.¹⁹

The level of migrant remittances is staggering. The estimated \$7 billion Mexican workers send to their families each year is more than 300 times our government's level of Official Development Assistance to that country; Salvadoran remittances are nearly 7 times all Foreign Direct Investment there; in Haiti, remittances constitute 17% of the GDP.²⁰ The cost of rich country restrictions on the economic migration of the poor, on the other hand, is equally staggering. In 1992, the United Nations Development Programme estimated that rich country immigration controls against poor country labor cost the developing world \$250 billion or 10% of their combined GNPs.²¹

Aside from the financial capital transfer, economic migrants also return to their home countries with broader political experience with alternative standards of governance and higher expectations. These can provide significant constructive impetus for much needed reform, democratization and development in poorer countries.

While we do not oppose the admission of high-skilled workers, we emphasize freedom of movement for the poorest of migrants for a number of reasons. The humanitarian needs of the poor are especially compelling and, without legal alternatives, they are consequently more likely to take death-defying risks. Finally, the American economy is increasing in its capital and highskill intensiveness. In 1940, 77% of our labor force was without a high school diploma; in 1990, fully half had attended college.²² This results in a growing disparity between our economy's proportionate low-skill labor factor endowment with respect to that of the rest of the world, particularly the developing world. In other words, the economic pressure for the equalizing immigration of low-skill workers is caused not only by the "push" from the developing world but also by the "pull" of our own economy.

BASES IN LUTHERAN IMMIGRATION STUDIES AND POLICY STATEMENTS

With specific reference to Mexico and its border with the U.S., the Lutheran Message on Immigration (ELCA, 1998),²³ states that

We recognize the right of all countries to control their borders and their duty to protect their citizens from the illegal entry of drugs and criminals. But we have serious doubts about the rightness and effectiveness of current policy to erect imposing barriers between the United States and Mexico. We support the search for alternatives to this policy that would more appropriately reflect the relationship of two friendly nations whose peoples and economies are increasingly interdependent. [p. 9]

¹⁸ President George W. Bush, "Remarks by the President and Virginia Gubernatorial Candidate Mark Early in Photo Opportunity," The White House, Office of the Press Secretary, July 26, 2001; Sen. Thomas A. Daschle and Rep. Richard A. Gephardt, Letter to Presidents George W. Bush and Vicente Fox, August 2, 2001, pp. 1–2.

¹⁹ Douglas S. Massey, "March of Folly: U.S. Immigration Policy After NAFTA," *The American Prospect*, no. 37, March–April, 1998. Massey summarizes empirical studies indicating that Mexican migration into the U.S. (and back to Mexico) is more closely correlated with variances in interest and inflation rates between the two countries than it is to wage levels or public benefits. Questioning the assumption that migrants make decisions to enter or return based on simple entry-cost/income-benefit analyses, Massey also rebuts the corollary notion that increasing barriers at the border will significantly prevent economic migration.

²⁰ Inter-American Development Bank Multilateral Investment Fund, "Remittances to Latin America and the Caribbean: Comparative Statistics," May 2001, www.iadb.or.p/mif/eng/conferences/remit-en.htm.

²¹ United Nations Development Programme, *Human Development Report 1992*, pp. 66–67.

²² Gordon H. Hanson, Kenneth F. Scheve, Matthew J. Slaughter and Antonio Spilimbergo, "Immigration and the U.S. Economy: Labor Market Impacts, Illegal Entry, and Policy Choices," June 2001, p. 23 Table 3.3.

²³ The Message is grounded in the pan-Lutheran documents "A Statement on Immigration Policies: Moral Issues and National Interest" (Lutheran Council in the USA, 1969, Minutes Exhibit F) and "Immigration Policies: Moral Issues and National Interest" (National Lutheran Council Annual Meeting, February 2–5, 1960, Minutes Exhibit B).

Far from a call for “open borders,” the Message nonetheless boldly suggests a highly constrained view of the substantive scope of the appropriate use of force in keeping people apart: e.g., the interdiction of drugs and criminals, not the separation of friendly, economically interdependent peoples.

Under “Advocating for Fair and Generous Laws,” the Message lists among objectives “giv[ing] content to our understanding of fair and generous immigration laws:

1. To admit to our permanent population a steady proportion of newcomers: . . .
- b. by facilitating the entry of persons possessing special skills or other capacities needed by the American economy and culture;” [pp. 6–7].

Finally, the Message recognizes that “The existence of a permanent sub-group of people who live without recourse to effective legal protection opens the door for their massive abuse and exploitation and harms the common good” and goes on to “urge leaders and citizens to seek feasible responses to this situation that offer flexible and humane ways for undocumented persons who have been in this country for a specified amount of time to be able to adjust their legal status” (p. 8).

In *Who is My Neighbor: A Statement of Concern* (LIRS, 1994), we acknowledge that “persons may feel their jobs threatened by newcomers into their communities” (δII.3) but also recognize that “To place one person or one need over another builds once more the walls which Christ came to remove” (δII.1). We affirm that those “fleeing desperate situations in which grinding poverty threatens the life and health of their families,” no less than those fleeing persecution, are our “brothers and sisters.” We must weigh “the needs of the very poor who leave their homes to seek a better life in this country and the needs of this Nation to provide for the welfare of its citizens We can help to fashion a national immigration and refugee policy that justly and compassionately weighs the rights and the legitimate needs of both those who reside within our borders and those who seek to enter” (δII.4).

Our Study Document of Principles on the Issue of Undocumented Aliens (LIRS, 1979), among “Recommended Current Criteria and Principles,” states that

it is imperative that . . . people in underdeveloped countries are dealt with justly and are able to pursue an adequate and satisfying way of life. Yet until such development is achieved, there must be a broadening of definition and understanding of those eligible for proper admission into the USA. Stewardship compels acceptance of as many as possible of those who have endured economic suffering. Acceptance should not be limited to the victims of political persecution. Whatever this richly endowed Nation can do it must do.

5. The advances that have been made in the field of civil rights demand that no restrictions be placed on the employment of the undocumented. Employer sanctions for hiring the undocumented could be an invitation under ‘color of law’ for an employer to reject the applicant who is not an English-speaking Caucasian. Furthermore such sanctions would place the employer in an enforcement role which is inimical to good order.

A viable option [preferable to national identification] might be . . . enforcement of the labor practice laws already enacted, since one of the charges against the undocumented is that they lower present labor standards. This neither helps the U.S. worker nor the undocumented. [p. 4, emphasis added].

Freed in Christ: Race, Ethnicity, and Culture (ELCA 1993) states prophetically that we “look forward to the time when people will come from east and west, north and south to eat in the reign of God (Luke 13:29)” p. 2. In that light, it sets forth a bold advocacy agenda for equality that can inform the way we look at immigration:

This church will support legislation, ordinances, and resolutions that guarantee to all persons equally: civil rights, including full protection of the law and redress under the law of discriminatory practices; . . . opportunity for employment with fair compensation, and possibilities for job training and education, apprenticeship, promotion, and union membership; . . . We of the Evangelical Lutheran Church in America will advocate for just immigration policies, including fairness in visa regulations . . . [p. 7, emphasis added]

CONCLUSION

I thank Chairman Leahy, Senator Kennedy and the Senate Judiciary Committee for the opportunity to present this written testimony. I trust that you will bear it in mind in your quest for a just and equitable solution to the problems our present immigration system poses for economic migrants. We share President Fox’s hope

that an agreement can be reached before the end of the year, even as nearly a hundred more may die between now and then. We share Congressman Sensenbrenner's hope that INS can be substantially restructured but do not feel that reform of our economic migration policy can wait until then. Independent worker visas could be implemented largely through the Consular Affairs office of the State Department without adding any substantial burdens to the INS.

Senator KENNEDY. Thank you very much.
Mr. Moore?

**STATEMENT OF STEPHEN MOORE, SENIOR FELLOW, CATO
INSTITUTE, WASHINGTON, D.C.**

Mr. MOORE. Thank you, Senator Brownback and Senator Kennedy, for the privilege of testifies on this very important issue.

Let me start by telling you how much I appreciate what you have done over the last 30 years on this issue, Senator Kennedy. I am sure that there are many issues that you and I would disagree on, but I think on this one I really applaud your leadership on this issue. It has meant a lot to the American economy and to millions of people around the world who come here and become Americans.

I would like to, if I could, just highlight three quick points because I know it is getting late in the afternoon.

First, immigration is not out of control. We hear it said that we are under siege by immigration and that we are accepting record levels of immigrants that we cannot absorb. And if you look at my testimony, if you look at some of the graphics I have put together, what you find is that in absolute numbers, sure, we are pretty near a peak point, about 1 million entrants per year; but this is about equivalent to the number of immigrants who came in during the great Ellis Island wave of immigration at the beginning of the century. But, of course, we are much more populous country today than we were 100 years ago. And if you look at immigration relative to our population, we are actually at a fairly low level of immigration, at least historically. About four new immigrants come into the country for every thousand Americans that are already here. I think that is a number that we are well able to absorb, and we have been absorbing them well.

A related issue with respect to this particular hearing is what about Mexican immigration. Has that been increasing or decreasing? And in preparation for this testimony, I looked at the historical data on where we are with Mexican immigration. What I found, Senators, is that over the last two decades we have seen an increase in immigration from Mexico, but not a startlingly large increase in Mexican immigration. And, in fact, I compared, Senator Kennedy, the percentage of immigrants coming from North America pre- the Kennedy Act of 1965 versus post-1965 Act, and what I found is there is almost no real shift in terms of the number of immigrants who are coming from our neighbor to the North and to the South. The actual big shift, as you know, has been away from Europe and towards Asia.

So my point is just that, you know, we are not being overwhelmed right now with Mexican immigration, and I think that the proposal that is put on the table of a legalization program and guest workers would be very consistent with our historical policy.

The second point I would like to make to you—and I think this is something that there is just an increasing economic consensus on

the issue that immigrants are good for our economy. You know, this is something, if we had been debating it 20 years ago, a lot of the people who were in the anti-immigration camp, if we had told them we are going to let 15 million new Americans into the country over the next 20 years, they would have predicted increased unemployment rates and all sorts of economic damage done to American workers. And if you look at the evidence over the last 20 years, when we have had a fairly generous immigration policy, my gosh, today even with the increase in the unemployment number that was reported today, we still have the lowest unemployment rate in the industrialized world, even though we take more immigrants into the United States than all of our industrialized competitors combined.

So I think as my former mentor used to say, Julian Simon, immigrants don't just take jobs, they create jobs through the businesses they create and through the demand that they create when they buy goods and services here in the United States.

The last 20 years has been a great period of prosperity, and it has been a period of a fairly high level of immigration. My only point is that I think this period really proves that prosperity and immigration can co-exist.

By the way, one area in particular where I think immigrants have just made an incredible contribution has been in the kind of information age, high-tech area. Again, in preparing this testimony, I was looking at some of the evidence from what has happened in the high-tech area, and it is estimated, for example, that in Silicon Valley, one out of every four businesses started over the last 20 years in Silicon Valley in the high-tech area was either founded by an Indian or a Chinese immigrant, which is really incredible. But they constitute almost 25 percent of the new businesses, which, by the way, gets to the point that immigrants don't just take jobs, they create jobs.

The final point I would like to make to you which is of most relevance to the legislation that you will be looking at later this year and next year is with respect to the temporary guest worker program. And I just wanted to make this point because I feel very strongly about this. Over the last 50 years, we have tried all sorts of measures to reduce illegal immigration, and I just want to go on record right now that I am very pro-legal immigration, but I am also very anti-illegal immigration. I think we do need to take steps to try to reduce the number of people who come into the country illegally. We have tried all sorts of types of measures to do that, including, for example, back 10 or 15 years ago when we implemented the employer sanctions law, which I think was a grand failure. I would agree with Grover Norquist that we ought to repeal that law.

But there is one program, interestingly enough, that as actually worked fairly well in reducing the number of illegal immigrants who come to the country, and I would, if I may, Senator Brownback, refer you—if you have a copy of my testimony—to Figure 6 which looks at the last 50 years with respect to undocumented apprehensions at the border. And then I compared that with the number of temporary workers that were permitted to come into the country in the 1950s and 1960s. And the point of this

graph, Senator, is that you see very high levels of undocumented immigration in the late 1940s and early 1950s, and then in about the mid-1950s, we implemented a legal guest worker program. And what happened is that the number of illegal immigrants just plummeted. In other words, when we allowed Mexican immigrants a legal way to come here, the number of illegal immigrants dramatically declined. And, in fact, you see that happening for about the 15 or so years that that legal temporary guest worker program was in existence. Then when we eliminated that program, that is when illegal immigration started to go way back up again.

So I think the historical record shows that if we do have a kind of humane guest worker program—and the guest worker program that we had in the late 1950s and 1960s had a lot of problems associated with it. But it does show that if you allow these workers a legal way to come, we can reduce illegal immigration. And I do believe that these workers who—after all, the immigrants who are coming here are the ones who are literally putting the food on our table, and our agriculture work has been done for 100 years by these migrant workers. We ought to really give them the decency and dignity of a legal program. And so I would really applaud any effort in that direction.

Thank you.

[The prepared statement of Mr. Moore follows:]

STATEMENT OF STEPHEN MOORE, SENIOR FELLOW IN ECONOMICS, CATO INSTITUTE,
WASHINGTON, D.C.

Thank you Senator Kennedy and Senator Brownback for the privilege of being asked to testify before your Committee on the impact of U.S. Mexico migration issues.

In this testimony I wish to make three points to the Committee. First, I wish to refute the widely held myth that immigration from Mexico is out-of-control or out of line with historical levels of immigrants admitted from our Southern neighbor. The percentage of immigrants coming from Mexico and other Central American nations is very much in line with rates of immigration for much of this region of the world for the past 100 years.

Second, the economic impact of immigration over the past two decades has been highly positive. An economic consensus has begun to emerge that U.S. workers and industry benefit from a generous immigration policy. In fact, many of our competitors from other industrial nations have begun to grudgingly concede that U.S. immigration policy has allowed the U.S. to attract many of the top minds and talents from around the world. Mexican President Vicente Fox was exactly right when he asked President Bush in their recent meeting: How can it possibly be that Mexican immigration has hurt the U.S., when your economy has performed so well over the past two decades? The answer is that on balance Mexican immigration has been a benefit not a burden to our economy. Even though Mexican immigrants tend to be less skilled and less educated than American workers and immigrants from other regions of the world, these migrant workers fill niches in our workforce that help our economy perform at a high level of efficiency.

Finally, I wish to comment on the legislative proposal to allow temporary guest workers into the U.S. I believe this policy would be highly desirable both in terms of reducing the flow of illegal immigration and in helping our vital agricultural and service industries attract the workers they need to remain competitive.

Point #1. Immigration Levels Are Not Out of Control, Nor Is Immigration from Mexico Especially High

A popular myth about current U.S. immigration policy is that the number of immigrants admitted has reached unprecedented heights. Here are the basic historical facts. In the 20th century America experienced two great waves of immigration to these shores: the first occurred in the early 1900s when huge throngs of European exiles the tempest tossed from Germany, Ireland, Italy, Poland, Sweden, Russia, and elsewhere arrived by ship and entered through Ellis Island. The second great wave began roughly 25 years ago and continues to this day.

Our current immigration levels range from the moderately high to the historically normal range depending on what measurement we use. Certainly in absolute numbers the U.S. has increased quotas substantially. We now add about 1 million new foreigners every year to the stock of Americans, which is about equal to the historical peak levels of the early 1900s. See Figure 1.

On the other hand, Pat Buchanan and Forbes writer Peter Brimelow, author of *Alien Nation*, are dead wrong in lambasting this flow as a kind of out of control alien invasion. The most meaningful way to measure our capacity to absorb immigrants into our culture and our economy is to calculate the number of people admitted relative to the size of the population already here. We now admit almost 4 new immigrants per year for every 1,000 Americans, which is a higher rate than in the past 50 years, but still only about half the historical average. See Figure 2. About 10% of Americans today are foreign born, which is just below our historical average, but is up a lot from 6% in the early 1970s. See Figure 3.

An issue of direct relevance to the recent negotiations between George W. Bush and Vicente Fox is whether immigration from Mexico has reached levels that are abnormally high. That is to say: How has the ethnic composition of the "new immigrants," changed over time? The 2000 Reform Party presidential candidate, Patrick Buchanan, has insisted that immigration is causing America to lose its "white European culture" and there are many Americans who agree with him. A prediction by Census Bureau demographers that whites may soon be a minority in Texas and California has received front page billing in many newspapers. The Census Bureau also predicts that Hispanics who now constitute 8% of the U.S. workforce, will constitute more than 20% by 2050. This is not just a cultural issue. Some economists maintain that the Europeans of earlier periods brought to the U.S. had much higher skill levels than the Asian and Hispanics do today.

It turns out that although Latino immigration has been on the rise in the past two decades, the current percentage of immigrants from Spanish-speaking nations like Mexico is only slightly higher than historical levels. See Figure 4. It is very true that since the enactment of the 1965 Immigration Act, the ethnic composition of immigration has changed markedly—but not in ways that most people suspect.

It is commonly believed that the big shift in the ethnic composition of immigrants in the 1970s, 80s, and 90s was toward allowing entry of more Hispanics from Central America and fewer Europeans. That is wrong. In fact, since the 1920s immigration from the rest of North America has remained steady at between 35 and 50 percent of the total. Hispanics have been coming to the U.S. in large numbers for 70 years. A 1988 U.S. General Accounting Office report concluded that the number of immigrants from Mexico has been "quite stable in this century." Over the past 10 years, there has been a rise in Mexican immigration flows, mostly because of legalization that occurred in the early 1990s.

What is different today than in 1965 is that European immigration has been supplanted by Asian immigration. Figure 5 shows that whereas in 1965 almost half of all immigrants came from Europe and 10 percent from Asia, by 1990 those percentages had essentially reversed (Moore, 1989, Heritage). I am not at all suggesting that there is a major problem with Asian immigration. To the contrary, Asian immigrants have from Cambodia, China, India, Japan, Pakistan, Taiwan, and Vietnam, for example—been some of the most economically successful groups to ever come to these shores.

I am only suggesting to this Committee that if we were to allow more migrant workers to come from Mexico, this would not be a major shift from our historical immigration policies.

Mexican migrants have been coming to the U.S. for almost a century to work in agriculture and service industries. The flow will almost certainly continue regardless of actions taken by Congress. The only real issue is whether we will continue to treat these workers as second class citizens, or whether we will start to confer upon them the full protections of our laws and legal system. I believe that we ought to treat the Mexican migrant workers with the dignity and decency that they deserve and have earned over many decades of contributing to our country and our prosperity.

Point 2. The New Immigrants have been economically beneficial to the U.S. and will continue to play a critical role in coming decades.

Here is a little thought experiment. Imagine for a moment that we were transplanted back in time twenty years ago and that this were 1981, not 2001. And imagine further, that you all on this Committee, were told at the start of the 1980s that over the next two decades the United States would admit more immigrants some 15 million newcomers than during any other 20 year period in American history.

Given these conditions, if immigrants harm the U.S. economy or hurt American workers, we should certainly see some evidence of it by now.

But happily, the evidence is nowhere to be found. There has been no increased unemployment, no increase in the black-white wage differential, no decline in family incomes, and no rise in poverty. In fact, virtually every one of these economic statistics has run in exactly the opposite direction of what immigration skeptics like Professor George Borjas of Harvard, would have predicted. The U.S. had high levels of immigration in the 1980s and 1990s and we enjoyed great economic prosperity and wealth creation. Virtually all income groups recorded gains.

Let's briefly examine each charge made by the restrictionists and see whether the facts fit the fears:

"Increased unemployment" Traditionally the overriding concern of Americans has been that foreigners will wrestle away jobs from U.S. born workers. Clearly that didn't happen in the 1980s or 90s. The U.S. unemployment rate is now between 4 and 5%. The U.S. economy has shown a remarkable ability to absorb new workers into the economy both natives and immigrants without causing job shortages. Between 1980 and 2000 the U.S. became a job creation machine, with some 35 million more Americans employed today than 20 years ago. Even more impressive is that even though the U.S. takes in nearly as many immigrants in a year as does all of Japan and Europe combined, it is the U.S. that now has the lowest unemployment rate in the industrialized world.

"Rising poverty rates" Do immigrants push Americans in the lower income into categories into poverty? Poverty rates are indeed high (26%) for first generation immigrant families, but what is noteworthy is that poverty rates for families of U.S. born parents, have fallen from about 15% in the early 1980s to a little over 10% in 2000. Americans have clearly not been pushed into poverty because of competition from the large scale immigration of the 1980s and 1990s.

"Lower wages for American-born" workers George Borjas has gained notoriety for the claim in his 1999 book *Heaven's Door: Immigration Policy and the U.S. Economy*, that immigrants contribute to the widening income gap between the rich and poor in America. But the story is not nearly as dire as Borjas would have us believe. Median family income in the U.S. rose over the period 1981-1998 from \$39,000 to \$45,800 or by roughly 16 percent after inflation, according to recent Census Bureau data. Even more devastating to the hypothesis that the poor are losing ground because of immigration, is that family incomes even rose for Americans in the bottom 20% over this period. And in fact, if immigrants themselves are excluded from the picture, so we are only assessing the impact of migrants on U.S. born workers, incomes at the bottom of the income scale have risen substantially since 1980. Wage suppression does not appear to have occurred in this period of high immigration.

"Adverse competition with black workers" Borjas and others have charged that the primary victims of U.S. immigration policy are black Americans who often must compete with foreigners for the same pool of low-skilled jobs. But over the past 20 years of high levels of immigration, the income gap between blacks and whites has actually shrunk. Blacks earned 60 cents for every dollar earned by whites in 1980 compared to 69 cents today. For women that racial disparity has narrowed from 89 cents in 1980 to 94 cents for every dollar earned by a white. Meanwhile, in 1999 the black and Hispanic unemployment rates fell to their lowest levels since the data was disaggregated by race in the early 1970s. In sum, the 1980s and 90s were about the two best decades ever for the economic advancement of black Americans. There is zero evidence that immigrants stood in the way of this march toward economic equality.

"Lower economic growth" What about the biggest issue of all: do immigrants reduce the rate of growth of the U.S. economy? The Federal Reserve Board calculates that over the past 20 years the U.S. economy has experienced a \$10 to \$12 trillion increase in net wealth (even accounting for the continuing stock market skid). The GDP has grown by nearly 80 percent (after inflation), and the inflation rate has fallen to nearly zero. In fact, Alan Greenspan has noted on several occasions in congressional testimony, immigrant workers have played a very useful role in smothering inflation in the U.S. economy.

Certainly the fact that we had high scale immigration And prosperity simultaneously in the 1980s and 90s in no way proves that immigrants caused the good times. But what the last 20 years do demonstrate is that a welcoming immigration policy can coexist with rapid economic growth, falling unemployment, and improved living standards for workers black and white.

Now, there are two possible explanations here for why the experience of the 80s and 90s has failed to confirm the anti-immigration movements case. The first is the one that the restrictionists would like us to buy: that we had this spectacular burst of economic progress, job creation, and new wealth, in spite of immigration. Who knows, the U.S. economy might have sprinted forward even more briskly if we hadn't had the burden of all the newcomers from around the globe.

The alternative explanation seems entirely more plausible: that the immigration restrictionists have simply gotten the economic story of immigration all wrong.

The truth is that the immigration skeptics have always held a contrarian view within the economics profession on this issue. A number of years ago I conducted a poll of the past presidents of the American Economic Association and past American Nobel prize winners in economics and found to my surprise almost unanimous support for the proposition that immigration has been a very important factor in explaining rapid growth in incomes and output in the U.S. over the 20th century. Economists still argue over the size of the benefit to native-born Americans of immigrants with, for example the National Academy of Sciences recently speculating that the overall economic effect is a modest \$10 billion a year contribution but very few argue that the impact is negative and that we are on balance worse off economically because of the presence of immigrants.

I have always maintained that immigrants add value to a modern economy in two ways. The first benefit derives from their age profile. Most immigrants come to the U.S. between the ages of 18-35. That is, they come at the start of their working years. This has two benefits: first, the human capital costs of education and child rearing are borne by the taxpayers of the sending country, not by U.S. taxpayers. Immigration really should be thought of as a reverse-form of foreign aid. I have calculated that the human capital foreign aid we import has a value to Americans of about \$50 to \$100 billion a year or roughly 3 times what we give to other nations in cash foreign aid payments. Second, because immigrants come to the U.S. when they are young with no corresponding parents who are eligible for Social Security and Medicare, they constitute a massive one-generation net benefit to the finances of both these programs. If we were to curtail all immigration for the next 25 years it would blow about a \$1.5 trillion larger hole in the Social Security deficit. It is true that the immigrants will collect Social Security when they retire; but by that time they will have children paying into the system to cover their parents retirement costs.

Second, skilled-immigrants of late have had a profoundly positive impact on the high-tech and information age economy. A 1999 study by the Public Policy Institute of California found that almost one of every four technology firms in the state were founded by either a Chinese or Indian immigrant. The study also found that roughly one of every three scientist and engineer in Silicon Valley was an immigrant. Just one immigrant alone, Hungarian refugee Andy Grove, co-founder of Intel is probably personally responsible for the high-paying jobs of 10,000 Americans. So much for the job displacement argument.

Certainly, the United States from an economic standpoint would be best off if we moved more toward a skill-based immigration selection criteria and de-emphasized family connections as the main gateway to entry. And in permitting more Mexican immigrants to come to the U.S. on a permanent basis, we should be attentive to how this might change the average skill levels of immigrants. Mexicans, for example, tend to have several years of fewer schooling than do Europeans and many Asian migrants, and thus their earnings potential in the U.S. is far more limited.

Point 3. Guest Worker Programs Can Help Reduce Illegal Immigration

I would maintain that one of America's most crucial foreign policy and national security goals should be to help keep the Mexican economy on a path toward rising incomes and prosperity. If Mexico could sustain a rate of economic growth of 5% per year, which it is capable of with the right set of market-based economic and tax policy changes, within one generation the average income Mexican worker can rise to near the level of a middle income American worker today.

If the Mexican economy were to plunge into a deep and sustained recession, the push-factor of immigration would impel millions of migrants to attempt to pour over the border into the United States. The commitment by Presidents Bush and Fox to integrate the U.S. and Mexican economies through free trade and more open immigration policies will help the U.S. economy somewhat and will help the Mexican economy hugely. NAFTA and immigration are economic safety valves for Mexico and they must not be turned off. These policies ensure that Mexican migration to the U.S. remains orderly, manageable and legal, not chaotic and illegal.

A top priority for the U.S. should be to find ways to discourage illegal immigration flows from Mexico and other nations. Over the past 50 years the U.S. government has attempted many policies to try to deter illegal immigration. The employer sanctions law, put in place in 1986 has been a grand failure and should be repealed. It encourages employers to discriminate against foreign looking workers and it turns businesses into INS enforcement agents.

One policy has worked extremely effectively and that is guest worker programs. The Figure shows that in the late 1950s and early 1960s, when the U.S. allowed as many as 400,000 legal temporary workers to come to the U.S. and gain employ-

ment in U.S. agriculture, the number of illegal immigrants plummeted. See Figure 6. Although there were clearly problems with the guest worker program in the early 1960s in terms of below standard working conditions for the Mexicans, from the point of view of reducing illegal immigration the policy was a grand success. Migrant workers will come to the U.S. through lawful channels if they are given the opportunity. I urge this Congress to consider implementation of a guest worker program for U.S. agriculture to help with the severe labor shortage for American farmers and to dramatically curtail illegal immigration.

In sum, I believe a temporary guest worker program combined with a limited, earned legalization program for those in the U.S. for at least 10 years should be considered. Ten percent of the guest workers' wages should be held in an escrow account that would be returned to the workers when they leave to go back to their home country. Social Security payroll taxes should be collected from these workers and paid in benefits at retirement age to these workers conditional on their not violating U.S. immigration laws during their lifetime. Criminal penalties should be imposed on smugglers who sneak illegal immigrants into the U.S. Cash fines should be imposed on illegal immigrants and illegal entrants should forfeit their opportunity to participate in guest worker programs or other legal immigration channels. In other words, the U.S. should say yes to legal immigration and a resounding no to illegal immigration. I believe a guest worker program could be the lynchpin of an effective border enforcement strategy.

Thank you again, Mr. Chairman for the opportunity to share my thoughts on these critical economic issues.

Senator KENNEDY. Thank you very much. The headstrong opposition to the employer sanctions in the 1986 Act actually only ended up, I think, with 26 or 28 votes in opposition to the inclusion of the sanctions themselves at that time. I was not convinced that it was going to be effective or going to work, and it certainly hasn't. And we are committed to try to make adjustments on that as well.

Mr. Norquist, let me ask you from a conservative's perspective, why does legalization—or your position on immigration, how does that sort of fit? Maybe I don't understand the conservative position historically well enough. But how do you see—how is this sort of consistent? Do you think it is just a matter of common sense? Or how do you come to this?

Mr. NORQUIST. Well, like all conservative positions, it is simply a matter of common sense.

[Laughter.]

Mr. NORQUIST. But I would argue from an intellectual, ideological viewpoint, there is a great concern about a government that is too intrusive, that violates people's property, that knows too much about people, that does too much to and through them, and a government that knows where everybody is at all given times and knows all sorts of information about them is a dangerous government. I think privacy questions—the level of intrusiveness. I don't want the Government standing between everybody in this country and their employer and telling them what they can or cannot do. Capitalist acts between consenting adults should not be the purview of Washington or Mexico City.

So I think it is also the idea that the Government was going to police the border when we have jobs here and people want to come and fit them and we have a failed Government program, which is letting too few people into the country legally, either as guest workers or on a citizenship track, or both. And when the Government made that wrong mistake, it then decided it was going to band-aid it by, you know, stopping people from crossing the border.

The Government doesn't do that very well. It doesn't do many things very well, but it also doesn't do that very well.

Senator KENNEDY. Mr. Deffenbaugh, I appreciate your mentioning the establishment of the under-class. You know, this is the first time we have heard about it over the course of our morning. It is, of course, an important factor and a major concern in a democracy. If you have people that are being subject to exploitation, they may be willing to be exploited and suffer because they are more often than not interested in their children's well-being and their children's future, so they are willing to tolerate a good deal of hardship. But if the children see that their parents are being exploited, it begins to breed a kind of anti-authoritarianism of a concept, and added to a lot of the other kinds of complexity in a society, I think it also can develop into social dynamite.

I was interested in why faith-based organizations support immigration reform.

Mr. DEFFENBAUGH. Well, I think it is basically because of the hardships now that are visited upon so many people because of the current immigration policy. We have the fact of the deaths on the border, you know, desperate people who simply want to come work in our country, find themselves risking their lives to try to come in, as Mr. Norquist said, to engage in a consenting capitalist act. And we have the separation of families, which you mentioned so eloquently in the introduction, where our current immigration policy has prevented close family members from being with each other and has perpetuated those divisions. We also have then the simple concepts of human freedom and offering people the opportunity to benefit themselves and their families and to try to have a better life for themselves.

That is all part of enhancing the human dignity, which, of course, is a concern for any religious organization.

Senator KENNEDY. I think finally, Mr. Moore, just as we move ahead in some of these areas with modest steps, we continue to see a slowing down in the economy. What is your sense as an economist of what the implication will be in terms of unemployment and pressure, downward pressure, particularly in terms of American jobs? How do you look at this as an economist as to the swings that we are facing either now or what you are able to estimate in terms of the future? How worried are you or how concerned should we be?

Mr. MOORE. Well, there is both a political and an economic aspect to this. The political aspect is that historically, when times have gotten tough, Americans have sort of tended to blame the immigrants, you know: If we didn't have these immigrants in here, we would have these jobs, and so on. So it might make your job a little more difficult politically to get this job done that needs to get done. The unemployment rate numbers came out today, another four-tenths of a percentage point increase. So that doesn't make your job any easier.

However, if you look at the economic evidence—and I have done a number of econometric studies that have been published in academic journals—there really is almost no evidence, Senators, that immigrants cause unemployment increases. It is really actually quite fascinating. No matter how you look at the evidence, you just don't find much evidence that immigrants cause unemployment overall.

Now, there is some evidence that in certain occupations immigrants may come in and displace American workers from various types of jobs. A good example of that is the Washington, D.C., taxicab market. Thirty years ago, if you got into a cab in this town, you probably would have had a black American driving that cab. Today, if you get into a taxicab, you almost certainly will have an immigrant who is driving you around town. So, to some extent, yes, the immigrants have displaced the native-born Americans from that occupation, but it is not as if unemployment rose. It just means that those American workers have moved into other types of occupations.

So I believe that the evidence over the last 20 years especially shows that we can have a generous immigration policy and falling unemployment. After all, in the early 1980s, we had 8 to 10 percent unemployment. After letting in 15 million additional immigrants—and there were also several million illegals who came in that period—we actually now have a very low unemployment rate. So there is no correlation between being generous with respect to immigration and increased unemployment.

And, by the way, let me say it is also true with respect to wages as well, that if you look over the last 20 years, median family incomes in this country have increased by 15 percent after inflation, again, over a period of high immigration. And even, for example, black, African American incomes have risen even faster than white incomes over the last 15 years. So there is no evidence that I see of direct harm to native workers from immigration.

Senator KENNEDY. Senator Brownback?

Senator BROWNBACK. Thank you, Senator Kennedy.

Let me say thanks to all the panelists. I want to say particularly to Grover Norquist and Stephen Moore, as conservative voices, I appreciate greatly you being out there and discussing the issue of immigration and in a very positive sense because I think we are in for a real strong discussion, a long discussion about this topic, and we need to have a lot of strong voices out there.

We had the last panel with both a head of labor unions and a head of businesses here saying we need to do the same sort of thing, coming from different reasons, different perspectives, but at the end coming to the same conclusion. And we need those strong voices out there, so I am very appreciative of you being out there and speaking, and I hope you will continue to, as I know both of you will.

Mr. Moore, I want to hook into your last point that you made about the economic situation. We are in a softer economy now. Unemployment rates are going up slightly. The opinion you put forward and the economic analysis that you have done previously about there is no correlation between levels of immigration and unemployment or wage levels, that is the dominant view of most economists? I presume there are few that would disagree with that. But that is the dominant economic view? Would that be correct?

Mr. MOORE. I believe so. Look, you know, on every public policy issue that we deal with, there is always disagreement. But I think there is a growing consensus. As you know, Senator Brownback—was it a year or two ago?—the National Research Council did a major study on what is the economic impact of immigration, and

they found that overall the impact was positive, that immigrants led to an increase in GDP and so on. And so I think there is an emerging consensus. You are still going to see people like George Borjas, for example, of Harvard, who disagrees with me on some of this—Briggs, Peter Brimelow. I call these guys “the killer B’s.” But the fact of the matter is that I think the evidence has run very much contrary to some of their theories.

Senator BROWNBACK. That has been my sense of where the overall theory of the economy is going. One other thing I want to point out is something that you have done work on, the impact on our Social Security system, Medicare system of the immigrant workforce coming in, and that this is a key group helping us in solving a difficult demographic picture that we are faced with.

Mr. MOORE. We need the immigrants now more than ever demographically. There is no question about it. I mean, you all know about what is happening with the change in the demographic situation, and fewer workers entering the workforce and the emerging baby-boom generation.

You know, what is happening all over the world is a kind of graying of the workforce of industrialized countries, and the one country that I think of all these countries that is able to solve this problem easiest is the United States because we have this kind of what I call a demographic safety valve of immigration.

You know, it is curious, Senator Brownback, that when I talk to Europeans and people from Japan and so on, they are starting to grudgingly concede that maybe they need a more open immigration policy like the United States because they recognize what is happening in their countries with low birth rates. They realize that we are skimming the cream. We are getting some of the best and talented minds and talents from around the world, and they are not going to Germany and they are not going to Japan and they are not going to France. They are coming here.

So I think this is a strategic economic advantage, and you are right, the extent to which we have an aging population allows us to benefit from the fact that most immigrants come to the United States between the ages of about 18 and 30, right at the prime of their working lives. This is a great bargain for Americans.

By the way, can I mention just one other quick thing on this, Senator, in reference to your previous question about the economic consensus? About 10 years ago, I did a survey of the past presidents of the American Economic Association and the past Nobel Prize-winning economists in the United States. This was a sample of about 75 of the most prominent economists in the United States. Now, they represent all different fields of economics and so on. And I asked them in this survey—it was just a four-question survey. What do you think is the economic impact of immigration? And we found that it was almost universal that these highly distinguished economists agreed that immigration has played a very crucial role in America’s economic development over the last century and that immigration will continue to be important.

So I think it gets to your point that there is this kind of consensus among economists that this is good for our country.

Senator BROWNBACK. Mr. Norquist, what about the point about the immigrant force and its impact on our Social Security and

Medicare system? I want to throw another twist to you on this. Some are saying that if we create a legalized type of system, we have a legalized worker system, they are going to pay into these systems. They are paying into them now. But if they go back to their home country, the Mexican Government is saying, well, there should be some way that they should be able to have access to some of the funds that they are paying in or some of the services that they have paid for in the structure of our system. I wonder if this doesn't bode for some sort of Social Security changes that we might look at down the road, particularly for this force.

Mr. NORQUIST. Well, even with more immigrants coming in, you could theoretically, if you are willing to bring in 100 million, keep the present Social Security Ponzi scheme going. But you really would need quite an increase in total immigration. But with higher immigration, it still doesn't bail out the present Social Security pay-as-you-go system. We need to shift to a system that is fully funded, individually held, where there is real savings going on, as other countries have done, as they have done in Galveston, Texas, as State workers, the 15 million State and local employees do. They have fully funded pensions. Those of us who don't work for State or local government don't have fully funded Social Security pensions. We need to move towards that, regardless of immigration.

It is an interesting question of what do you do with people who have paid taxes. If the Mexican Government wants the money, I think the answer is no. If the individuals themselves are interested in it, you might want to cut some sort of deal and get them some defined contribution pension, especially if you are going to have guest workers who are just coming through and may wander back again. You don't have that problem if you had like a 401(k) for these immigrants or migrants, somebody who is coming in, put into a 401(k), just as you or I can take a 401(k) or an individual retirement account and move to Alabama or France with it. It is still ours. But no one would move to France.

[Laughter.]

Senator BROWNBACK. I won't touch that one in your comments. But I think it is going to be an interesting question that we are going to need to confront. These are people that will move back and forth and yet pay into that system. We need to structure it somehow to where it is beneficial and rightly fitted to them, and I think we need to look at some of these sorts of concepts where you do have definable plans.

Mr. Deffenbaugh, finally, I would like to say thank you for all the generous help your organization has done for immigrants. Senator Kennedy and I were both talking up here about how much your organization helps on the firing line people on a daily basis in this country and around the world, and for that you are for this Nation fulfilling that admonition in Matthew 25 that I am deeply appreciative of, those quotes about true religion is taking care of widows, orphans, and the foreigner amongst you. And you help us in fulfilling that for this Nation, and I am very appreciative of that.

You have also been supportive of the Refugee Protection Act that is a bill that is put forward, Senator Kennedy is pressing on, the chairman of the Committee is as well. I don't know if you have any

additional thoughts on it, but we look forward to your help on that bill as well as on these overall immigration issues.

Mr. DEFFENBAUGH. Yes, and we are really appreciative of the strong leadership that each of you have given on the Refugee Protection Act and on general issues relating to refugees and asylum seekers in this country. As you so well know, it is important that that Refugee Protection Act be passed so that we no longer have this terrible contradiction in our country now where the Nation with the Statute of Liberty in its harbor welcomes people fleeing from persecution by locking them up while we adjudicate their claims, if they are lucky; or if they are not lucky, they are turned away at the airport and don't even have a chance to press their claim. That is something that has to be changed.

Then the other legislation which is pending now, which is also very important—and I say this from the perspective of an organization which has a long history of working with unaccompanied refugee children and with other unaccompanied children who are in INS custody—is the bill that Senator Feinstein introduced, the Unaccompanied Alien Child Protection Act, which would change this peculiar practice we have now in the United States of locking immigrant children behind bars instead of according to them the same child welfare protections that would be considered standard in a domestic setting.

Senator BROWNBACK. I appreciate your mentioning that. I might mention to the chairman, while I was chairing this Committee, Senator Feinstein raised this same issue, and I had promised her we would hold a hearing on that topic.

Senator KENNEDY. It is set for September 19th.

Senator BROWNBACK. Great. What efficiency.

[Laughter.]

Senator BROWNBACK. Thank you all very much.

Senator KENNEDY. I want to thank you all. It has been an enormously interesting hearing. As I said, I have rarely seen a public policy question which brings about so much emotion and where there is really a coming together in terms of these common-sense recommendations and compassionate recommendations and recommendations that are clearly not just in the interest of the United States, but I think other countries and families as well. So we are really challenged. You have given us all the material now, and we are going to do the best that we can. But we will be calling on you for guidance, and we will invite you to, as you see this process develop, give us whatever suggestions or recommendations you have.

We will include in the record at this point the statement of Chairman Leahy.

[The prepared statement of Senator Leahy follows:]

STATEMENT OF HON. PATRICK J. LEAHY, A U.S. SENATOR FROM THE STATE OF VERMONT

This hearing occurs at a momentous time in our relationship with Mexico, and in our national attitude toward immigration. I applaud Senator Kennedy for chairing today's hearing, and for his longstanding dedication to the establishment of fair immigration policies. I hope that we come out of this hearing with both a clearer view of the Bush and Fox Administrations' goals for the ongoing bilateral discussions, and a strong consensus in the Senate that we will consult and work

with the Mexican Government in our consideration of changes in U.S. immigration law and policy.

It was a wonderful experience to take part in President Vicente Fox's address to a joint session of Congress yesterday. I am impressed by his energy and by his dedication to improving the lives of his people and the U.S.-Mexico relationship. I agree with him that the lives of both our nations' citizens would be enhanced by strengthened ties between our countries.

When I think back to the immigration debates we had in this Congress five short years ago, during consideration of the Illegal Immigration Reform and Immigrant Responsibility Act, I am pleased and amazed at the change in rhetoric we see today. Five years ago in this chamber, immigrants received the blame for problems with our national security and economy. Today, the majority of us view immigrants as valuable additions to the American community and vital engines in the economic growth we have witnessed over the last decade.

I do not want to prejudge the immigration proposals that the Bush and Fox Administrations will make. But it is fair to say that I, along with most Senators from both sides of the aisle, intend to be receptive and constructive toward the proposals that arise from the U.S.-Mexico discussions. I have said in the past that we should not offer immigration benefits only to residents of one nation, and I continue to believe that today. But given the importance of Mexican immigration I also believe that we should pay close attention to the thoughts of the Mexican government and the interests of Mexican nationals who are currently in the United States.

Senator KENNEDY. The Committee stands in recess.

[Whereupon, at 12:50 p.m., the Committee was adjourned.]

[Additional material is being retained in the Committee files.]

